Delaware
Compilation of School Discipline Laws and Regulations

Prepared: January 31, 2020
Introduction

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

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

Notes & Disclaimers

To the best of the preparer’s knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of January 2020. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

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

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Safe Supportive Learning
Engagement | Safety | Environment
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General Provisions

Authority to develop and establish rules of conduct

LAWS

(a) The school board of each reorganized school district, subject to this title and in accordance with the policies, rules and regulations of the State, shall, in addition to other duties:
   (2) Determine the educational policies of the reorganized school district and prescribe rules and regulations for the conduct and management of the schools;

14 Del.C. §1150. School transportation.
9.0. Pupil Conduct on School Buses
   9.1. Districts shall have a policy concerning the behavior of pupils on school buses that shall, at a minimum, contain the following rules which if not followed may result in the suspension or denial of bus riding privileges:
      9.1.1. Obey the driver promptly, and be courteous to the driver and to fellow pupils. Pupils are to conduct themselves while on the bus in such a way that they shall not distract the driver from driving tasks.
      9.1.15. Do not open the bus windows without permission from the driver, extend any body part out of the windows or call out to passers-by.
      9.1.16. Do not leave the bus without the driver’s consent, except on arrival at their regular bus stop or at school.
      9.1.17. Keep the bus clean, sanitary, and orderly and do not damage or abuse the equipment.
      9.1.18. Do not smoke, use profanity, eat or drink on the bus.
      9.1.19. Do not throw articles of any kind inside, around the bus or out of the bus windows.
      9.1.20. Other forms of misconduct that shall not be tolerated on the bus and at bus stops are acts such as, but not limited to, bullying, indecent exposure, obscene gestures, spitting, and other actions that may be addressed in the District or school code of conduct.

The Department of Education shall, from time to time, adopt and promulgate such rules and regulations as will be necessary for the implementation of the program authorized by this chapter.

14 Del.C. §4120. School dress codes and uniforms.
(a) The school board of each public school district shall have authority to establish and enforce a dress code program, which may include school uniforms, for students within the district to promote an orderly, disciplined school environment and to encourage uniformity of student dress. Any school board exercising its authority under this section shall promulgate rules and regulations governing the establishment and enforcement of its dress code program.

14 Del.C. §4164. School bullying awareness and prevention; criminal youth gang detection.
(a) School bullying prevention and criminal youth gang detection training program. The Department of Justice and the Department of Education, in collaboration with law-enforcement agencies, the Delaware
State Education Association, the Delaware School Boards Association, and the Delaware Association of School Administrators, shall identify and maintain a school bullying prevention and criminal youth gang detection training program for school district and charter school employees.

(b) Prohibition of bullying.

(2) Each school district and charter school shall establish a policy which, at a minimum, includes the following components:

a. A statement prohibiting bullying of any person on school property or at school functions or by use of data or computer software that is accessed through a computer, computer system, computer network, or other electronic technology of a school district or charter school from kindergarten through grade 12. For purposes of this section, “school property” and “school functions” mean as defined in § 4112 of this title.

(c) Dissemination of policy and accountability.

(1) Each school district and charter school shall adopt the policy consistent with subsection (b) of this section and submit a copy to the Department of Education by January 1 of each year, or by January 1 of a newly approved charter school's first year of operation. For purposes of this paragraph, "submit" includes providing access to the policy via the school district's or charter school's website. Each school district and charter school shall submit a revised policy to the Department of Education within 30 calendar days of a school district's or charter school's revision. The Department of Education shall review a policy or a revised policy submitted under this paragraph for compliance with state and federal law.

(2) Each school district and charter school shall include the policy adopted under subsection (b) of this section in the student and staff handbook. If no handbook is available, or if it is not practical to reprint new handbooks, each school district and charter school shall distribute a copy of the policy annually to all students, parents, faculty, and staff. Each school district and charter school shall provide the telephone number of the Department of Justice School Ombudsperson in writing to parents, students, faculty, and staff and provide the telephone number on the school district's or charter school's website and the website of each school in the school district. Each school district shall prominently display the telephone number of the Department of Justice School Ombudsperson in each school in the school district. Each charter school shall prominently display the telephone number of the Department of Justice School Ombudsperson in the school.

(3) [Repealed.]

(4) The Department of Education shall prepare an annual report, which must include a summary of all reported and all substantiated incidences of bullying, a summary of the information gathered under paragraph (b)(2)f. of this section, and the results of audits conducted under paragraph (d)(4) of this section. The Department shall post the report required by this subsection on its website.


(b) Teen dating violence and sexual assault policies. Each school district and charter school serving 1 or more of the grades in grades 7 through 12 shall establish a policy for responding to teen dating violence and sexual assault that includes, at a minimum, all of the following components:

(1) Definitions of teen dating violence and sexual assault, the behaviors which constitute each, and the consequences for committing offenses.

(2) Guidelines on mandatory reporting and confidentiality as required by the law of this State and school district or charter school policy.

(3) A protocol for responding to incidents of teen dating violence and sexual assault which includes all of the following:
a. Procedures regarding initial response.
b. Procedures for reporting incidents of teen dating violence and sexual assault when a report is required.
c. Procedures for the documentation of incidents.
d. Procedures for working with victims.
e. Procedures for working with perpetrators.

(e) Dissemination of policy and accountability.

(1) Each school district and charter school shall adopt a policy consistent with subsection (b) of this section. Following review by the Domestic Violence Coordinating Council, each school district and charter school shall submit a copy to the Department of Education by January 5, 2015, or by January 5 of a newly approved charter school's first year of operation.

(2) Each school district and charter school shall ensure that its policy adopted under subsection (b) of this section appears in the student and staff handbook. If no handbook is available, or if it is not practical to reprint new handbooks, each school district and charter school shall ensure that a copy of the policy is distributed annually to all students, parents, faculty, and staff.

(3) The Department of Education shall prepare an annual report, which shall include a summary of reported incidences of teen dating violence and sexual assault. The Department shall submit the report to the Domestic Violence Coordinating Council by August 1 of each year.

14 Del.C. §9304. Enforcement by institution.

(a) Anti-hazing policy. Each institution shall adopt a written anti-hazing policy and, pursuant to that policy, shall adopt rules prohibiting students or other persons associated with any organization operating under the sanction of or recognized as an organization by the institution from engaging in any activity which can be described as hazing.

(b) Enforcement and penalties.

(1) Each institution shall provide a program for the enforcement of such rules and shall adopt appropriate penalties for violations of such rules to be administered by the person or agency at the institution responsible for the sanctioning or recognition of such organizations.

REGULATIONS


1.0 Written Policy Required

1.1 Each school district and charter school shall have a written policy implementing the Gun-Free Schools Act [(20 U.S.C. §7961)] and complying with 11 Del.C. §1457(j) or its successor statute. At a minimum, the policy must contain the following elements:

1.1.1 A student who is determined to have brought a firearm to school, or to have possessed a firearm at school, shall be expelled for not less than one year.

1.1.2 Modification to the expulsion requirement may be made on a case by case basis by the chief school officer. Any modification to the expulsion requirement must be made in writing to the Department.

1.1.3 The definition of “Firearm” shall be the same as the meaning given to the term in the federal Gun-Free Schools Act.

2.0 Submission of the Policy to the State Department of Education
2.1 Each school district and charter school shall submit the following to the Delaware Department of Education annually, in such form as the Department requires:

2.1.1 An electronic copy of its policy implementing the Gun-Free Schools Act [(20 U.S.C. §7961)] and complying with 11 Del.C. §1457(j) or its successor statute; and

2.1.2 An electronic copy of any revised policy implementing the Gun-Free Schools Act [(20 U.S.C. §7961)] and complying with 11 Del.C. §1457(j) or its successor statute under the policy implemented in accord with this regulation within ninety (90) days of such revision regardless of whether revisions were made as a result of changes to federal, state or local law, regulations, guidance or policies; and

2.1.3 Descriptions of the expulsions imposed under 11 Del.C. §1457(j) or its successor statute under the policy implemented in accord with this regulation.

3.0 Individuals with Disabilities Act

Nothing in this regulation shall alter a district or charter school's duties pursuant to the Individuals with Disabilities Education Act.


1.0. Required Policy

1.1. All local school districts and charter schools shall have their own policies on student rights and responsibilities. These policies shall be based on the most current version or reauthorization of Delaware Code, Delaware Administrative Code, federal legislation such as, but not limited to, Individuals with Disabilities Education Act (IDEA), Civil Rights Act, Elementary and Secondary Education Act (ESEA), Section 504 of the Rehabilitation Act, Americans with Disabilities Act (ADA), and the Patsy T. Mink Equal Opportunity in Education Act (Title IX).

2.0. Distribution of Student Rights and Responsibilities Policy

2.1. Each local school district and charter school shall distribute and explain these policies to every student at the beginning of each school year.

2.2. Each district and charter school shall distribute and explain these policies to each student enrolling or re-enrolling during the school year.

2.3. Each district and charter school shall post the policies on student rights and responsibilities on its website and notify a parent, guardian or Relative Caregiver of each student in writing where this policy(s) can be accessed. A hard copy shall be provided to a parent, guardian or Relative Caregiver upon request.

3.0. Reporting Requirements and Timelines

3.1. Each local school district and charter school shall have an electronic copy of its current student rights and responsibilities policy(s) on file with the Department of Education.

3.2. Each local school district and charter school shall provide an electronic copy of any student rights and responsibilities policy(s) to the Department within ninety (90) days of such revision regardless of whether said revisions were made as a result of changes to Federal, state or local law, regulations, guidance or policies.

14 DE Admin. Code §612. Possession, use or distribution of drugs and alcohol.

4.0. Requirement of Each School District and Charter School to have a Policy

4.1. Each school district and charter school shall have a policy on file and update it periodically. The policy shall include, at a minimum, the following:

4.1.1. A system of notification of each student and their parent, guardian or Relative Caregiver at the beginning of the school year, of the state and district policies and regulations. In addition a system for
the notification of each student and their parent, guardian or Relative Caregiver whenever a student enrolls or re-enrolls during the school year of the state and district policies and regulations.

4.1.2. A statement that state and district or charter school policies shall apply to all students, except that with respect to children with disabilities, applicable federal and state laws will be followed.

4.1.3. A written policy which sets out procedures for reporting incidents to police authorities, parents, guardians or Relative Caregivers and to the Department of Education, while maintaining confidentiality.

4.1.4. A written policy on how evidence is to be kept, stored and documented, so that the chain of custody is clearly established prior to giving such evidence over to the police.

4.1.5. A written policy on search and seizure.

4.1.6. A program of assistance for students with counseling and referral to services as needed.

4.1.7. A policy in cases involving a Drug Like Substance or a Look Alike Substance for establishing that the student intended to use, possess or distribute the substance as a Drug.

4.1.8. A policy which establishes how Prescription Medications and Nonprescription Medications shall be handled in the School Environment and when they will be considered unauthorized and subject to these state and local policies.

4.1.9. A policy which sets out the conditions for return after expulsion for Alcohol or Drug infractions.

5.0. Reporting Requirements and Timelines

5.1. Each local school district and charter school shall have an electronic copy of its current possession, use and distribution of Drugs and Alcohol policy on file with the Department of Education.

5.2. When a local school district or charter school revises its possession, use, and distribution of Drugs and Alcohol policy, it shall notify the Department of Education of the revised policy within thirty (30) days of the revision, even if the revision was made because of changes in federal, state or local law, regulations, guidance or policies.


1.0. Required Attendance Policy

1.1. Each school district shall have an attendance policy that is in accordance with the requirements of the Delaware Code and which defines and describes the district's rules concerning attendance for students K to 12.

3.0. Reporting Requirements and Timelines

3.1. Each public school district shall have an electronic copy of its current attendance policy on file with the Department of Education.

3.2. Each public school district shall provide an electronic copy of any attendance policy within ninety (90) days of such revision(s) regardless of whether said revisions were made as a result of changes to Federal, state or local law, regulations, guidance or policies.


(a) Anti-hazing policy. Each institution shall adopt a written anti-hazing policy and, pursuant to that policy, shall adopt rules prohibiting students or other persons associated with any organization operating under the sanction of or recognized as an organization by the institution from engaging in any activity which can be described as hazing.
Scope

LAWS

11 Del.C. §1457. Possession of a weapon in a safe school and recreation zone; class D, E, or F felony: class A or B misdemeanor.

(c) For the purpose of this section, "Safe School and Recreation Zone" shall mean:

1. Any building, structure, athletic field, sports stadium or real property owned, operated, leased or rented by any public or private school including, but not limited to, any kindergarten, elementary, secondary or vocational-technical school or any college or university, within 1,000 feet thereof; or
2. Any motor vehicle owned, operated, leased or rented by any public or private school including, but not limited to, any kindergarten, elementary, secondary, or vocational-technical school or any college or university; or
3. Any building or structure owned, operated, leased or rented by any county or municipality, or by the State, or by any board, agency, commission, department, corporation or other entity thereof, or by any private organization, which is utilized as a recreation center, athletic field or sports stadium.

14 Del.C. §1150. School transportation.

9.0. Pupil Conduct on School Buses

9.1. Districts shall have a policy concerning the behavior of pupils on school buses that shall, at a minimum, contain the following rules which if not followed may result in the suspension or denial of bus riding privileges:

9.1.1. Obey the driver promptly, and be courteous to the driver and to fellow pupils. Pupils are to conduct themselves while on the bus in such a way that they shall not distract the driver from driving tasks.
9.1.15. Do not open the bus windows without permission from the driver, extend any body part out of the windows or call out to passers-by.
9.1.16. Do not leave the bus without the driver’s consent, except on arrival at their regular bus stop or at school.
9.1.17. Keep the bus clean, sanitary, and orderly and do not damage or abuse the equipment.
9.1.18. Do not smoke, use profanity, eat or drink on the bus.
9.1.19. Do not throw articles of any kind inside, around the bus or out of the bus windows.
9.1.20. Other forms of misconduct that shall not be tolerated on the bus and at bus stops are acts such as, but not limited to, bullying, indecent exposure, obscene gestures, spitting, and other actions that may be addressed in the District or school code of conduct.


(b) Criminal violation; mandatory reports.

1. Whenever a school employee has reliable information that would lead a reasonable person to believe that:
   a. A student, school volunteer, or a school employee, has been the victim of:
      1. A violent felony,
      2. An assault III, or
      3. An unlawful sexual contact III, which occurred on school property or at a school function; or
b. A student has been the victim of:

1. A violent felony
2. An assault III, or
3. Any sexual offense, as defined in § 761(h) of Title 11, and the offense was committed by another school employee regardless of whether the offense occurred on school property or at a school function; then the school employee who has reliable information that would lead a reasonable person to believe that a crime has been committed shall immediately report the incident to the principal.

14 Del.C. §4164. School bullying awareness and prevention; criminal youth gang detection.

(b) Prohibition of bullying.

(2) Each school district and charter school shall establish a policy which, at a minimum, includes the following components:

a. A statement prohibiting bullying of any person on school property or at school functions or by use of data or computer software that is accessed through a computer, computer system, computer network, or other electronic technology of a school district or charter school from kindergarten through grade 12. For purposes of this section, "school property" and "school functions" mean as defined in § 4112 of this title.

g. A requirement that, to the extent that funding is available, each school develop a plan for a system of supervision in nonclassroom areas. The plan must provide for the review and exchange of information regarding nonclassroom areas.

(f) Other defenses.

(1) The physical location or time of access of a technology-related incident is not a valid defense in any disciplinary action by the school district or charter school initiated under this section provided there is sufficient school nexus.

(2) This section does not apply to any person who uses data or computer software that is accessed through a computer, computer system, computer network, or other electronic technology when acting within the scope of that person's lawful employment or investigation of a violation of this section in accordance with school district or charter school policy.

14 Del.C. §9304. Enforcement by institution.

(b) Enforcement and penalties.

(5) Rules adopted pursuant hereto shall apply to acts conducted on or off campus whenever such acts are deemed to constitute hazing.

REGULATIONS

14 DE Admin. Code §612. Possession, use or distribution of drugs and alcohol.

2.0. General Provisions

2.1. The following provisions shall apply to all public school district and charter schools:

2.1.1. The possession, use or distribution of Alcohol, a Drug, a Drug Like Substance, a Look Alike Substance and Drug Paraphernalia are prohibited within the School Environment, unless medically necessary.

2.1.2. Student lockers are the property of the school and may be subjected to search at any time with or without reasonable suspicion.
2.1.3. Student motor vehicle use to and in the School Environment is a privilege which may be extended by school districts or charter schools to students in exchange for their cooperation in the maintenance of a safe school atmosphere. Reasonable suspicion of a student's use, possession or distribution of Alcohol, a Drug, a Drug Like Substance, a Look Alike substance or Drug Paraphernalia in the School Environment, may result in the student being asked to open an automobile in the School Environment to permit school authorities to look for such items. Failure to open any part of the motor vehicle on the request of school authorities may result in the police being called to conduct a search, and will result in loss of the privilege to bring the vehicle on campus.

2.1.4. All Alcohol, Drugs, Drug Like Substances, Look Alike Substances and Drug Paraphernalia found in a student's possession shall be turned over to the principal or designee, and be made available, in the case of a medical emergency, for identification. All substances shall be sealed and documented, and, in the case of substances covered by 16 Del.C. Ch. 47, turned over to police as potential evidence.

3.0. Definitions

The following definitions shall apply to this regulation, unless a specific regulation, statute or the context in which they are used clearly indicates otherwise, and shall apply to all public school districts and charter schools.

"School Environment" means within or on school property, and at school sanctioned or supervised activities, including, for example, on school grounds, on school buses, at functions held on school grounds, at extra curricular activities held on and off school grounds, on field trips and at functions held at the school in the evening.


2.0. Terms and Definitions

In this regulation, the following terms and words shall have the following meaning unless the context clearly indicates otherwise:

"School Environment" means within or on School Property, and at school sponsored or supervised activities, including, for example, on school grounds, on school buses, at functions held on school grounds, at school sponsored extracurricular activities held on and off school grounds, on field trips and at functions held at the school in the evening.

"School Property" means any building, structure, athletic field, sports stadium or real property that is owned, operated, leased or rented by any public school district or charter school including, but not limited to, any kindergarten, elementary, secondary, or vocational-technical school or charter school, or any motor vehicle owned, operated, leased, rented or subcontracted by any public school or charter school.


1.0. Required Policy

In order to improve the health of students and school personnel, each school district and charter school in Delaware shall have a policy which at a minimum:

1.1. Prohibits the use of or distribution of tobacco products in school buildings, on school grounds, in school leased or owned vehicles, even when they are not used for student purposes, and at all school affiliated functions.

2.0. The Tobacco Policy Shall Apply to
2.1. Any building, property or vehicle leased, owned or operated by a school district, charter school or assigned contractor.

2.1.1. School bus operators under contract shall be considered staff for the purpose of this policy.

2.2. Any private building or other property including automobiles or other vehicles used for school activities when students and staff are present.

2.3. Any non educational groups utilizing school buildings or other educational assets.

2.4. Any individual or a volunteer who supervises students off school grounds.

Communication of policy

LAWS

14 Del.C. §701. Authority of teachers and administrators to control the disruptive behavior of students.

(g) Each local board of education shall establish, adopt, publish, and distribute to students in the district and their parents or guardian's policy or standards that are consistent with the regulations developed under § 122(b)(26) of this title and include all of the following:

(1) Specify the general circumstances under which a student may be removed from a classroom or school-sponsored activity, consistent with a teacher's and administrator's ultimate authority to determine disruptive behavior and to remove a student from a classroom or school-sponsored activity.

(2) Provide an explanation or examples of "disruptive behavior" set forth in paragraph (a)(2) of this section.

14 Del.C. §2724. Notification to parents and students.

At the beginning of a school year each school district or public school shall notify each student and the parent of each student of the school attendance requirements of this Code, including the procedures and penalties applicable to truancy. The school district or school may determine the form of the notification.


At the commencement of each school year, the school board of each school district shall ensure that each student enrolled in the district and the parent of each student shall receive notice of the following:

(1) The provisions of § 621 of title 11 which prohibit making a false statement which causes evacuation of a school or other place of assembly and the penalties for such an offense;

(2) The provisions of § 4110 of this title, which prohibit disturbing schools or destroying school property and the penalties for such offenses;

(3) The provisions of § 4112 of this title, which require the reporting of school crimes.


(d) Implementation of training program. Each school district and charter school shall implement the educational programming provided under subsection (b) of this section as follows:

(1) The educational programing provided under paragraph (b)(1) of this section must be provided to all of its employees as required by § 4162 of this title.

(2) The educational programing provided under paragraph (b)(2) of this section must be provided to all students enrolled in grades pre-kindergarten through 6 through health education programs or related classes.
The educational programing provided under paragraph (b)(3) of this section must be provided to parents of students enrolled in grades pre-kindergarten through 6 through written materials, available online through the school district's or charter school's website or in hard copy upon a request by parents, on an annual basis and may be provided through live presentations.

(e) Notification of parents. Prior to providing any instruction under paragraph (d)(2) of this section, each school district and charter school shall inform the parent of any student enrolled in grades pre-kindergarten through 6 in writing that the parent may examine and review the educational materials before the materials are taught.

14 Del.C. §4164. School bullying awareness and prevention; criminal youth gang detection.

(c) Dissemination of policy and accountability.

(1) Each school district and charter school shall adopt the policy consistent with subsection (b) of this section and submit a copy to the Department of Education by January 1 of each year, or by January 1 of a newly approved charter school's first year of operation. For purposes of this paragraph, "submit" includes providing access to the policy via the school district's or charter school's website. Each school district and charter school shall submit a revised policy to the Department of Education within 30 calendar days of a school district's or charter school's revision. The Department of Education shall review a policy or a revised policy submitted under this paragraph for compliance with state and federal law.

(2) Each school district and charter school shall include the policy adopted under subsection (b) of this section in the student and staff handbook. If no handbook is available, or if it is not practical to reprint new handbooks, each school district and charter school shall distribute a copy of the policy annually to all students, parents, faculty, and staff. Each school district and charter school shall provide the telephone number of the Department of Justice School Ombudsperson in writing to parents, students, faculty, and staff and provide the telephone number on the school district's or charter school's website and the website of each school in the school district. Each school district shall prominently display the telephone number of the Department of Justice School Ombudsperson in the school. Each charter school shall prominently display the telephone number of the Department of Justice School Ombudsperson in the school.

(3) [Repealed.]

(4) The Department of Education shall prepare an annual report, which must include a summary of all reported and all substantiated incidences of bullying, a summary of the information gathered under paragraph (b)(2)f. of this section, and the results of audits conducted under paragraph (d)(4) of this section. The Department shall post the report required by this subsection on its website.

14 Del.C. §4165. Suicide awareness and prevention.

(c) Accountability. Each school district and charter school shall adopt the policy required by subsection (b) of this section and shall submit a copy to the Department of Education by September 1, 2016, and by September 1 of a newly approved charter school's first year of operation. Each school district and charter school shall provide any changes to the policy to the Department within 60 calendar days.

(d) Dissemination of policy. Each school district and charter school shall ensure that the policy adopted under this section appears in the student and staff handbook and on its website.


(e) Dissemination of policy and accountability.

(2) Each school district and charter school shall ensure that its policy adopted under subsection (b) of this section appears in the student and staff handbook. If no handbook is available, or if it is not
practical to reprint new handbooks, each school district and charter school shall ensure that a copy of
the policy is distributed annually to all students, parents, faculty, and staff.

REGULATIONS

2.0. Distribution of Student Rights and Responsibilities Policy
2.1. Each local school district and charter school shall distribute and explain these policies to every
student at the beginning of each school year.
2.2. Each district and charter school shall distribute and explain these policies to each student enrolling
or re enrolling during the school year.
2.3. Each district and charter school shall post the policies on student rights and responsibilities on its
website and notify a parent, guardian or Relative Caregiver of each student in writing where this
policy(s) can be accessed. A hard copy shall be provided to a parent, guardian or Relative Caregiver
upon request.

14 DE Admin. Code §612. Possession, use or distribution of drugs and alcohol.
4.0. Requirement of Each School District and Charter School to have a Policy
4.1. Each school district and charter school shall have a policy on file and update it periodically. The
policy shall include, at a minimum, the following:
4.1.1. A system of notification of each student and their parent, guardian or Relative Caregiver at the
beginning of the school year, of the state and district policies and regulations. In addition a system for
the notification of each student and their parent, guardian or Relative Caregiver whenever a student
enrolls or re enrolls during the school year of the state and district policies and regulations.

2.0. Distribution of Attendance Policy
2.1. Each district shall distribute and explain these policies to every student at the beginning of each
school year.
2.2. Each district shall distribute and explain these policies to each student enrolling or re enrolling
during the school year.
2.3. Each district shall post the attendance policy on its website and notify a parent, guardian or
Relative Caregiver of each student in writing where this policy can be accessed. A hard copy shall be
provided to a parent, guardian or Relative Caregiver upon request.

1.0. Cyberbullying Forbidden
In addition to the policy prohibiting bullying put in place by school districts and charter schools pursuant to
14 Del.C. §4112D(b)(2), each school district and charter school shall also prohibit cyberbullying (as
defined herein) by students directed at other students. Incidents of cyberbullying shall be treated by each
school district and charter school in the same manner as incidents of bullying, and notice of each school
district's and charter school's policy against cyberbullying shall be provided to students, staff, and faculty
in the same manner as notice of the school district's and charter school's policy against bullying.
2.0. Definition of Cyberbullying
2.4. Upon implementation of this policy, and again at the beginning of each academic year, each school
district and charter school shall inform students in writing of mediums where posting of speech will be
presumed to be available to a broad audience within the school community, regardless of privacy settings or other limitations on those postings. From implementation of this policy through the end of the 2013-2014 school year, postings on Facebook, Twitter, MySpace, YouTube, and Pinterest shall be included in each district’s and charter school’s list of mediums where posting of speech will be presumed to be available to a broad audience within the school community, regardless of privacy settings or other limitations on those postings.


1.0. Required Policy

In order to improve the health of students and school personnel, each school district and charter school in Delaware shall have a policy which at a minimum:

1.2. Includes procedures for communicating the policy to students, school staff, parents, guardians or Relative Caregivers, families, visitors and the community at large.
In-School Discipline

Use of multi-tiered discipline approaches

LAWS

14 Del.C. §4164. School bullying awareness and prevention; criminal youth gang detection.
(b) Prohibition of bullying.
   (2) Each school district and charter school shall establish a policy which, at a minimum, includes the following components:
       h. An identification of an appropriate range of consequences for bullying.

REGULATIONS
No relevant regulations found.

Teacher authority to remove students from classrooms

LAWS

14 Del.C. §701. Authority of teachers and administrators to control the disruptive behavior of students.
(a) As used in this chapter:
   (1) "Department" means the Department of Education.
   (2) "Disruptive behavior" means conduct that is so unruly, disruptive, or abusive that it seriously interferes with a school teacher's or school administrator's ability to communicate with the students in a classroom, with a student's ability to learn, or with the operation of a school or a school-sponsored activity.
   (3) "Racial subgroup" means the racial and ethnic subgroups of students as defined under the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 6301 et seq., as amended, which includes African American or Black, American Indian or Alaska Native, Asian American, Native Hawaiian or other Pacific Islander, Hispanic or Latino, White or Caucasian, and Multi-Racial.
   (4) "School" means a traditional public school, vocational technical school, or charter school.
   (5) "Subgroup" means as subgroup is defined under the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 6301 et seq., as amended, which includes racial subgroups, economically disadvantaged students, children with disabilities, and English learners.
(b) While a student is entrusted in their care or supervision, public school teachers, and administrators have the same authority to control the behavior of the student and to discipline or punish the student as a parent, custodian, guardian, or other person similarly responsible for the care and supervision of the student except as provided in §§ 702 and 4112F of this title. The authority includes removing a student from a classroom or school-sponsored activity.
(c) When a teacher removes a student from a classroom or school-sponsored activity in an effort to control the student's disruptive behavior, an on-site school administrator may, upon a written showing of good cause, override the teacher's decision to remove the student from the classroom or school-sponsored activity. Before overriding a teacher's decision, the administrator shall strongly presume that the teacher's decision to remove the student was reasonable and necessary under the circumstances.
(d) When a student is removed from a classroom or school-sponsored activity or is disciplined or punished pursuant to this section, the principal or the principal's designee shall afford the student appropriate due process as required by the federal and State constitutions.

(e) When a student is removed from a classroom or school-sponsored activity, the principal or the principal's designee and the removing teacher shall determine if and when a student may be readmitted to the classroom or school-sponsored activity. If the teacher and principal or principal's designee cannot agree, the superintendent or the superintendent's designee shall make the determination.

(f) When a teacher or school administrator removes a student from a classroom or school-sponsored activity or disciplines or punishes a student, a rebuttable presumption exists that the teacher or administrator acted reasonably, in good faith, and in accordance with State or local board of education policy. The burden of overcoming the presumption shall be upon the student.

(g) Each local board of education shall establish, adopt, publish, and distribute to students in the district and their parents or guardian's policy or standards that are consistent with the regulations developed under § 122(b)(26) of this title and include all of the following:

1. Specify the general circumstances under which a student may be removed from a classroom or school-sponsored activity, consistent with a teacher's and administrator's ultimate authority to determine disruptive behavior and to remove a student from a classroom or school-sponsored activity.

2. Provide an explanation or examples of "disruptive behavior" set forth in paragraph (a)(2) of this section.

(h) A district shall not establish or adopt a policy or standards that prohibit the removal of a student from a classroom or school-sponsored activity.

(i) No teacher who purports to have acted pursuant to the teacher's rights established by this chapter shall be found liable for civil damages arising from that action unless that teacher's conduct shocks the conscience.

REGULATIONS
No relevant regulations found.

Alternatives to suspension

LAWS
No relevant laws found.

REGULATIONS
No relevant regulations found.

Use of corporal punishment

LAWS


(a) "Corporal punishment" means the intentional infliction of physical pain which is used as a means of discipline. "Corporal punishment" includes, but is not limited to, paddling and slapping, when used as a means of discipline.

(b) No public school teacher, administrator, official employee or agent of the School Board may subject a student enrolled in the school district to corporal punishment.
(c) Subsection (b) of this section does not prohibit a public school teacher, administrator, official employee or agent of a school board from:

(1) Using reasonable and necessary force to quell a disturbance, including but not limited to a physical altercation, or prevent an act that threatens imminent bodily harm to any person;

(2) Using reasonable and necessary force to obtain possession of a weapon, or other dangerous object within a student’s control;

(3) Using reasonable and necessary force for the purpose of self-defense or the defense of others under §§ 464 and 465 of Title 11;

(4) Using reasonable and necessary force for the protection of property under § 466 of Title 11;

(5) Using reasonable and necessary force to prevent a student from imminently inflicting bodily harm on that student’s own self;

(6) Using reasonable and necessary force to protect the bodily safety of others; or

(7) Using incidental or minor physical contact necessary to maintain order and control.

(d) In determining whether or not a person was acting within the exceptions in subsection (c) of this section, deference shall be given to reasonable, good faith judgments made by the teacher, administrator, official employee or agent.

(e) Nothing in this section shall prohibit, permit or otherwise affect any action taken by the teacher, administrator, official employee or agent of the School Board with regard to a person who is not a student enrolled in the school district.

(f) For purposes of this section, the term “reasonable and necessary” shall be interpreted in conformity with applicable limitations establish by §4112F of this title.

REGULATIONS
No relevant regulations found.

Use of student and locker searches

LAWS

14 Del.C. §4119. Metal detectors.
The school board of each school district shall have authority to employ the use of metal detectors, or any other similar security devices, to prevent pupils from bringing dangerous instruments, deadly weapons or any other contraband into the schools. Any school board exercising its authority under this section shall promulgate rules and regulations governing the implementation and use of such security devices.

14 Del.C. §4121. Video cameras on public school property.
The school board of each school district shall have authority to establish and implement programs to use video cameras for surveillance on public school property, including, but not limited to, classrooms, halls, auditoriums, cafeterias, gymnasiums and parking areas, for the purpose of monitoring student behavior to help ensure the safety of students and teachers. However, no video camera shall be used for classroom surveillance, pursuant to this section, unless the principal of the school and the teacher of the classroom consent to the surveillance.

Before exercising its authority under this section, a school board shall promulgate rules and regulations governing the implementation and use of video cameras in classrooms. However, in no event shall video cameras be used at any time or at any location which would violate a student’s reasonable expectation of privacy including, but not limited to, locker rooms, areas where students may disrobe and lavatories.
REGULATIONS

14 DE Admin. Code §612. Possession, use or distribution of drugs and alcohol.

2.0. General Provisions

2.1. The following provisions shall apply to all public school district and charter schools:

2.1.2. Student lockers are the property of the school and may be subjected to search at any time with or without reasonable suspicion.

2.1.3. Student motor vehicle use to and in the School Environment is a privilege which may be extended by school districts or charter schools to students in exchange for their cooperation in the maintenance of a safe school atmosphere. Reasonable suspicion of a student's use, possession or distribution of Alcohol, a Drug, a Drug Like Substance, a Look Alike substance or Drug Paraphernalia in the School Environment, may result in the student being asked to open an automobile in the School Environment to permit school authorities to look for such items. Failure to open any part of the motor vehicle on the request of school authorities may result in the police being called to conduct a search, and will result in loss of the privilege to bring the vehicle on campus.

2.1.4. All Alcohol, Drugs, Drug Like Substances, Look Alike Substances and Drug Paraphernalia found in a student's possession shall be turned over to the principal or designee, and be made available, in the case of a medical emergency, for identification. All substances shall be sealed and documented, and, in the case of substances covered by 16 Del.C. Ch. 47, turned over to police as potential evidence.

3.0. Definitions

The following definitions shall apply to this regulation, unless a specific regulation, statute or the context in which they are used clearly indicates otherwise, and shall apply to all public school districts and charter schools.

"Possess" “Possessing” or "Possession" means that a student has on the student's person, in the student's belongings, or under the student's reasonable control by placement of and knowledge of the whereabouts of, Alcohol, a Drug, a Drug Like Substance, a Look Alike Substance, or Drug Paraphernalia.

4.0. Requirement of Each School District and Charter School to have a Policy

4.1. Each school district and charter school shall have a policy on file and update it periodically. The policy shall include, at a minimum, the following:

4.1.5. A written policy on search and seizure.

Other in-school disciplinary approaches

LAWS

14 Del.C. §9304. Enforcement by institution.

(b) Enforcement and penalties.

(2) Such penalties may include the imposition of fines, the withholding of diplomas or transcripts pending compliance with the rules or pending payment of fines and the imposition of probation, suspension or dismissal.
REGULATIONS

14 DE Admin. Code §1008. DIAA junior high and middle school interscholastic athletics.

2.0. Eligibility: No Student Shall Represent a School in an Interscholastic Scrimmage or Contest if the Student Does Not Meet the Following Requirements

2.3. Eligibility, Enrollment and Attendance

2.3.5. A student must be legally in attendance at school in order to participate in a practice, scrimmage, or contest except when excused by proper school authorities in accordance with pre-established written school policy.

2.3.5.1. A student who is not legally in attendance at school due to illness or injury shall not be permitted to participate in a practice, scrimmage, or contest on that day.

2.3.6. A Student who fails to complete a semester or absence for one or more semesters for reasons other than personal illness or injury shall be ineligible for 90 school days from his/her reentry to school.

2.3.7. An ineligible student who practices in violation of 2.3.1 through 2.3.6 shall, when the student regains their eligibility, be prohibited from practicing, scrimmaging or competing for an equivalent number of days.
Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

LAWS
No relevant laws found.

REGULATIONS

14 DE Admin. Code §614. Uniform definitions for student conduct which may lead to alternative placement or expulsion.

1.0. Purpose
Pursuant to 14 Del.C. §122(b) (26), this regulation provides uniform definitions for student conduct which may result in alternative placement or expulsion. This regulation shall apply to all school districts and charter schools. Nothing contained here shall be interpreted to require the alternative placement or expulsion of a student, nor shall this regulation be interpreted to restrict the ability of school districts and charter schools to determine which student conduct shall result in expulsion or an alternative placement.

2.0. Definitions
Since some definitions of section 2.0 may not be age appropriate, this section shall not be required to be published in a district or charter school’s Student Code of Conduct. The district/charter school shall publish an internet link to this entire regulation in the Student Code of Conduct and provide a paper copy of the regulation upon request of a member of the public. In this regulation, the following terms shall have the meanings indicated below:

"Alcohol" shall have the same definition as provided in 4 Del.C. §101(1).
"Alcohol Liquor" shall have the same definition as provided in 4 Del.C. §101(2).
"Crime" shall have the same meaning as provided in 14 Del.C. §4112.
"Charter School" means a charter school board established pursuant to Chapter 5 of Title 14 of the Delaware Code.
"Commission by a student“ means that a student has engaged in behavior equivalent to that which is prohibited by law regardless of whether the student has been criminally convicted of the same.
"Dangerous Instrument" shall have the same meaning as provided in 11 Del.C. §222(4).
"Deadly Weapon” shall have the same meaning as provided in 11 Del.C. §222(5).
"Distribute", "Distributing" or "Distribution" means the transfer or attempted transfer of Alcohol, a Drug, a Look Alike Substance, a Drug Like Substance, or Drug Paraphernalia to any other person with or without the exchange of money or other valuable consideration.
"District" means a reorganized school district or vocational technical school district established pursuant to Chapter 10 of Title 14 of the Delaware Code.
"Drug" means any "controlled substance" or "counterfeit controlled substance" as defined in 16 Del.C. §4701 (6) and (7).
"Drug Like Substance" means any noncontrolled and nonprescription substance capable of producing a change in behavior or altering a state of mind or feeling, including, for example, some over the counter cough medicines, certain types of glue, caffeine pills and diet pills. The definition of Drug Like...
Substance does not include tobacco or tobacco products which are governed by 14 DE Admin. Code 877 Tobacco Policy.

"Drug Paraphernalia" shall have the same meaning as provided in 16 Del.C. §4701 (17).

"Expulsion" means, for purposes of this regulation, the exclusion from the regular school setting for a period determined by the local District board or Charter School board.

"Firearm" means handgun, rifle, shotgun, or other type of firearm as that term is defined in the federal Gun Free Schools Zone Act at 18 U.S.C.A. §921.

"Look Alike Substance" means any noncontrolled substance which is packaged so as to appear to be, or about which a student makes an express or implied representation that the substance is, a Drug or a noncontrolled substance capable of producing a change in behavior or altering a state of mind or feeling.

"Nonprescription Medication" means any over the counter medication; some of these medications may be a "Drug Like Substance."

"Possess", "Possessing", or "Possession" means that a student has on the student's person, in the student's belongings, or under the student's reasonable control prohibited items or substances.

"Prescription Drugs" means any substance obtained directly from or pursuant to a valid prescription or order of a practitioner, as defined in 16 Del.C. §4701(31), while acting in the course of his or her professional practice, and which is specifically intended for the student in whose Possession it is found.

"Sexual Act" means (1) contact between the penis and the vulva or the penis and the anus, and for purposes of this definition contact involving the penis occurs upon penetration, however slight; (2) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus; or (3) the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to arouse or gratify the sexual desire of any person.

"Sexual Intercourse" shall have the same meaning as provided in 11 Del.C. §761(g).

"Sexual Offense" means any offense defined by 11 Del.C. §§763-780 and §§1108-1112A, 1352(2) and 1353.

"Student Code of Conduct" means the District/Charter School approved document which specifies the rights and responsibilities of students, defines conduct that disrupts/threatens a positive/safe school environment, standardizes procedures for consequences, disciplinary action, and defines due process and grievance procedures.

"Theft" means those acts described in 11 Del.C. §§ 841 through 846 inclusive.

"Use" means that a student is reasonably known to have voluntarily ingested, smoked or otherwise assimilated Alcohol, a Drug or a Drug Like Substance, or is reasonably found to be under the influence of such a substance.

3.0. Uniform Definitions for Student Conduct

The following definitions shall be used whenever a school district or charter school uses such conduct as a basis for alternative placement or expulsion of a student:

"Arson" shall mean a person recklessly or intentionally damages a building by intentionally starting a fire or causing an explosion.
"Assault III" shall mean: (1) A person intentionally or recklessly causes physical injury to another person; or (2) With criminal negligence the person causes physical injury to another person by means of a Deadly Weapon or a Dangerous Instrument.

"Attorney General's Report (Juvenile Arrest Warrant and Complaint)" shall mean the Department of Justice's report of out-of-school criminal conduct, regardless of jurisdiction, which shows disregard for the health, safety and welfare of others, including, but not limited to acts of violence, weapons offenses, and Drug offenses.

"Breaking and Entering" shall mean unauthorized entry of any locked area of the school environment during or after school; including, but not limited to, rooms, classrooms, auditorium, gym, shops, offices, lockers, cabinets and vehicles.

"Bullying" shall mean any intentional written, electronic, verbal or physical act or actions against another student, school volunteer or school employee that a reasonable person under the circumstances should know will have the effect of: (1) Placing a student, school volunteer or school employee in reasonable fear of substantial harm to his or her emotional or physical well-being or substantial damage to his or her property; or (2) Creating a hostile, threatening, humiliating or abusive educational environment due to the perversiveness or persistence of actions or due to a power differential between the bully and the target; or (3) Interfering with a student having a safe school environment that is necessary to facilitate educational performance, opportunities or benefits; or (4) Perpetuating bullying by inciting, soliciting or coercing an individual or group to demean, dehumanize, embarrass or cause emotional, psychological or physical harm to another student, school volunteer or school employee.

"Criminal Drug Offense, Commission of" shall mean the Commission by a student of the unlawful Possession, Distribution, or use of Alcohol, a Drug, a Drug-Like Substance, and/or Drug Paraphernalia.

"Criminal Deadly Weapons/Dangerous Instrument Offense, Commission of" shall mean the Commission by a student of an offense prohibited by 11 Del.C. §§1442 through 1458 inclusive.

"Criminal Mischief (Vandalism)" shall mean a student, in the School Environment, intentionally or recklessly: (1) Damages tangible property of another person or entity; or (2) Tampers with tangible property of another person so as to endanger person or property.

"Criminal Sexual Offense, Commission of" shall mean the Commission by a student of an offense prohibited by 11 Del.C. §§763 through780, inclusive, or §§1108 through1112A, inclusive, or §1352(2) or §1353.

"Criminal Violent Felony Offense, Commission of" shall mean the Commission by a student of any violent felony as specified in 11 Del.C. §4201(c).

"Cyberbullying" shall mean the use of uninvited and unwelcome electronic communication directed at an identifiable student or group of students, through means other than face-to-face interaction, which (1) interferes with a student's physical well-being; or (2) is threatening or intimidating; or (3) is so severe, persistent, or pervasive that it is reasonably likely to limit a student's ability to participate in or benefit from the educational programs of the school district or charter school. Communication shall be considered to be directed at an identifiable student or group of students if it is sent directly to that student or group, or posted in a medium that the speaker knows is likely to be available to a broad audience within the school community.

"Dangerous Instrument(s) Possession/Concealment/Sale" shall mean the unauthorized Possession/concealment/sale by a student in the School Environment of any instrument, article or substance which is readily capable of causing serious physical injury or death.

"Deadly Weapon(s) Possession/Concealment/Sale" shall mean the Possession, concealment, or sale of a Deadly Weapon in the School Environment.
“Defiance of School Authority” shall mean: (1) A verbal or non-verbal refusal to immediately comply with a reasonable request from school personnel, or refusal to identify oneself at the request of school personnel, and/or refusal to comply with disciplinary action; or (2) A verbal or non-verbal display of disrespect and/or uncivil behavior toward school personnel which either causes a substantial disruption or material interference with school activities.

"Disorderly Conduct" shall mean conduct in the School Environment which causes public inconvenience, annoyance or alarm or creates a risk thereof by: engaging in fighting or violent tumultuous or threatening behavior or making an unreasonable noise or an offensively coarse utterance or gesture or display or addressing, abusive language to any person present.

"Distribution of Drugs and/or Alcohol and/or Drug Paraphernalia" shall mean the sale, transfer, or Distribution in school, on school property, or on school field trip of Drugs or Alcohol.

"Extortion" shall mean to obtain or attempt to obtain money, goods, services, or information from another by force or the threat of force.

"Felony Theft ($1500 or more)" shall mean: (a) When a person takes, exercises control over or obtains property of another person intending to deprive that person of it or appropriate it; or (b) When a person, in any capacity, legally receives, takes, exercises control over or obtains property of another which is the subject of Theft, and fraudulently converts the property to the person's own use. The Theft is considered a felony when the value of the property received, retained, or disposed of is $1500 or more or the victim is 62 years of age or older, or an "adult who is impaired" as defined in § 3902(2) of Title 31, or a "person with a disability" as defined in § 3901(a)(2) of Title 12.

"Fighting" shall mean any aggressive physical altercation between two or more individuals.

"Gambling" shall mean participation in games of chance for money or other things of value.

"Gun Free School's Violation" shall mean the prohibited bringing to school, or Possession while in school of a Firearm by a student.

"Harassment" shall mean any actions or statements made with the intent to harass, annoy, or alarm another person which: A) insults, taunts, or challenges the other person or; B) is a cause of alarming or distressing conduct which serves no legitimate purpose and is done in a manner which the actor knows is likely to provoke a violent or disorderly response or cause a reasonable person to suffer fear, alarm, or distress.

"Inhalant Abuse" shall mean chemical vapors that are inhaled for their mind-altering effects.

"Medications: Inappropriate Use or Possession" shall mean Possessing or using Nonprescription Medication or Prescription Drugs of any type in the School Environment in violation of 14 DE Admin. Code 612.

"Misuse of Technology" shall mean:

The use of school technology equipment in:

- Soliciting, using, receiving or sending pornographic or obscene material; or
- Accessing unauthorized email; or
- The unauthorized downloading and/or installing of files; or
- Intentionally damaging technology equipment in the School Environment; or

A situation in which a student deliberately:

- Tampers with, damages, alters, accesses, crashes, or corrupts the computer/communications system in the School Environment resulting in the loss or corruption of information or the ability of the system to operate; or
- In any way disrupts or degrades the school or District's technology infrastructure.
"Offensive Touching" shall mean intentionally touching another person either with a member of his or her body or with any instrument, knowing that the person is thereby likely to cause offense or alarm to such other person; or Intentionally striking another person with saliva, urine, feces or any other bodily fluid, knowing that the person is thereby likely to cause offense or alarm to such other person.

"Pornography" shall mean the Possession, sharing, or production of any known obscene material in the School Environment.

"Rape or Attempted Rape" shall respectively mean sexual intercourse and attempted Sexual Intercourse without consent of the victim in both cases.

"Reckless Burning" shall mean when a person intentionally or recklessly starts a fire or causes an explosion and recklessly places a building or property in danger of destruction or damage or places another person in danger of physical injury.

"Repeated Violations of Student Code of Conduct" shall mean five or more violations of the school's Code of Conduct within a school year, excluding chronic infractions for tardiness or unexcused absences to school/class.

"Sexual Assault" shall mean any unwanted sexual behavior committed by a perpetrator who is a stranger to the victim or by a perpetrator who is known by the victim or related to the victim by blood, marriage or civil union. Behaviors that fall under this definition include but are not limited to: sexual harassment as defined in §763 of Title 11; sexual contact as defined in §761(f) of Title 11; Sexual Intercourse as defined in §761(g) of Title 11; sexual penetration as defined in §761(i) of Title 11; and child sexual abuse as defined in §901 of Title 10.

"Sexual Misconduct" shall mean a consensual sexual act(s) between two individuals within the School Environment.

"Stealing" means taking, exercising control over or obtaining property of another person intending to deprive that person of it or appropriate it.

"Steroids Possession and/or Use" shall mean the unlawful Use or Possession of steroids.

"Tampering with Public Records" shall mean a person knowingly without valid authorization removes, mutilates, destroys, conceals, makes a false entry in or falsely alters any original record or other written material filed with, deposited in or otherwise constituting a record of a public office or public servant.

"Teen Dating Violence" shall mean assaultive, threatening or controlling behavior, including stalking as defined in 11 Del.C. §1312, that one person uses against another person in order to gain or maintain power or control in a current or past relationship. The behavior can occur in both heterosexual and same sex relationships, and in serious or casual relationships.

"Terroristic Threatening" shall mean when: (1) A person threatens to commit any Crime likely to result in death or in serious injury to person or property; or (2) A person commits an act with intent of causing an individual to believe that the individual has been exposed to a substance that will cause the individual death or serious injury.

"Terroristic Threatening - Security Threat" shall mean when a person makes a false statement or statements: (1) Knowing that the statement or statements are likely to cause evacuation in the School Environment; (2) Knowing that the statement or statements are likely to cause serious inconvenience in the School Environment; or (3) In reckless disregard of the risk of causing terror or serious inconvenience in the School Environment.

"Unlawful Sexual Contact III" shall mean when a student has sexual contact with another person or causes the victim to have sexual contact with the student or a third person and the student knows that the contact is either offensive to the victim or occurs without the victim's consent.
“Use and/or Possession of a Drug and/or Alcohol and/or Drug Paraphernalia” shall mean, that in the School Environment, a student unlawfully Possesses, Uses or is under the influence of Alcohol, a Drug, Drug Paraphernalia, or any substance or paraphernalia consistent with the definitions of these substances or paraphernalia.

“Violation of Behavior Contract” shall mean the failure of a student to comply with the provisions of any behavior contract between the student, his/her legal guardian, and the school.

4.0. Effective Date

This regulation shall become effective for School Codes of Conduct in the 2014-15 school year.

Grounds for mandatory suspension or expulsion

LAWS

11 Del.C. §1457. Possession of a weapon in a safe school and recreation zone; class D, E, or F felony: class A or B misdemeanor.

(j) The penalty for possession of a weapon in a Safe School and Recreation Zone shall be:

(5) In the event that an elementary or secondary school student possesses a firearm in a Safe School and Recreation Zone in addition to any other penalties contained in this section, the student shall be expelled by the local school board or charter school board of directors for a period of not less than 180 days unless otherwise provided for in federal or state law. The local school board or charter school board of directors may, on a case by case basis, modify the terms of the expulsion.

(6) In the event that an elementary or secondary school student possesses a deadly weapon other than a firearm in a Safe School and Recreation Zone in addition or as an alternative to any other penalties contained in this section, the student may be suspended for a period of not less than 30 days unless otherwise provided for in federal or state law. The local school board or charter school board of directors may, on a case by case basis, modify the terms of the suspension.

REGULATIONS


1.0 Written Policy Required

1.1 Each school district and charter school shall have a written policy implementing the Gun-Free Schools Act [(20 U.S.C. §7961)] and complying with 11 Del.C. §1457(j) or its successor statute. At a minimum, the policy must contain the following elements:

1.1.1 A student who is determined to have brought a firearm to school, or to have possessed a firearm at school, shall be expelled for not less than one year.

Limitations, conditions or exclusions for use of suspension and expulsion

LAWS

14 Del.C. §8104. Academic institution; wrongful dismissal or refusal to admit.

An academic institution may not discipline, dismiss or otherwise penalize or threaten to discipline, dismiss or otherwise penalize a student for refusing to disclose any information specified in § 8103(a) or (b) of this title. It shall also be unlawful for a public or nonpublic academic institution to fail or refuse to admit any
applicant as a result of the applicant's refusal to disclose any information specified in § 8103(a) or (b) of this title.

REGULATIONS


30.0. Discipline Procedures Authority of School Personnel.

30.1. Case by case determination: School personnel may consider any unique circumstances on a case by case basis when determining whether a change in placement, consistent with the other requirements of this section, is appropriate for a child with a disability who violates a code of student conduct.

30.2. School personnel under 30.0 may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than ten (10) consecutive school days (to the extent those alternatives are applied to children without disabilities), and for additional removals of not more than ten (10) consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement under 36.0).

30.2.1. After a child with a disability has been removed from his or her current placement for ten (10) school days in the same school year, during any subsequent days of removal the public agency shall provide services to the extent required under 30.4 of this section.

30.3. Additional authority: For disciplinary changes in placement that would exceed ten (10) consecutive school days, if the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child’s disability pursuant to 30.5, school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities, except as provided in 30.4.

30.4. Services:

30.4.1. A child with a disability who is removed from the child’s current placement pursuant to 30.3 or 30.7 shall continue to receive educational services, as provided in 14 DE Admin. Code 923.1.2 so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child’s IEP; and receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

30.4.2. The services required by paragraphs 30.4.1, 30.4.3, 30.4.4, and 30.4.5 may be provided in an interim alternative educational setting.

30.4.3. A public agency is only required to provide services during periods of removal to a child with a disability who has been removed from his or her current placement for ten (10) school days or less in that school year, if it provides services to a child without disabilities who is similarly removed.

30.4.4. After a child with a disability has been removed from his or her current placement for ten (10) school days in the same school year, if the current removal is for not more than ten (10) consecutive school days and is not a change of placement under 36.0, school personnel, in consultation with at least one (1) of the child’s teachers, determine the extent to which services are needed, as provided in 14 DE Admin. Code 923.1.2 so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child’s IEP.

30.4.5. If the removal is a change of placement in 36.0, the child’s IEP Team determines appropriate services in 30.4.1.
30.5. Manifestation determination: Within ten (10) school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the LEA, the parent, and relevant members of the child’s IEP Team (as determined by the parent and the LEA) shall review all relevant information in the student’s file, including the child’s IEP, any teacher observations, and any relevant information provided by the parents to determine:

30.5.1. If the conduct in question was caused by, or had a direct and substantial relationship to, the child’s disability; or

30.5.2. If the conduct in question was the direct result of the LEA’s failure to implement the IEP.

30.5.3. The conduct shall be determined to be a manifestation of the child’s disability if the LEA, the parent, and relevant members of the child’s IEP Team determine that a condition in either 30.5.1 or 30.5.2 was met.

30.5.4. If the LEA, the parent, and relevant members of the child’s IEP Team determine the condition described in 30.5.2 was met, the LEA shall take immediate steps to remedy those deficiencies.

30.6. Determination that the behavior was a manifestation: If the LEA, the parent, and relevant members of the IEP Team make the determination that the conduct was a manifestation of the child’s disability, the IEP Team shall either:

30.6.1. Conduct a functional behavioral assessment, unless the LEA had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or

30.6.2. If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior; and

30.6.3. Except as provided in 30.7, return the child to the placement from which the child was removed, unless the parent and the LEA agree to a change of placement as part of the modification of the behavioral intervention plan.

30.7. Special circumstances: School personnel may remove a student to an interim alternative educational setting for not more than forty-five (45) school days without regard to whether the behavior is determined to be a manifestation of the child’s disability, if the child:

30.7.1. Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of the DOE or an LEA;

30.7.2. Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of the DOE or an LEA; or

30.7.3. Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the DOE or an LEA.

30.8. Notification: The LEA or other public agency shall ensure that the parents, guardian or Relative Caregiver of each child with disabilities receive written notice of the rules and regulations applicable to such children with respect to discipline, suspension, expulsion, and exclusion as a treatment procedure at the beginning of each school year or upon entry into a special education program during the school year; and

30.8.1. On the date on which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of a code of student conduct, the LEA shall notify the parents of that decision, and provide the parents the procedural safeguards notice described in 4.0.

30.9. Definitions: For purposes of this section, the following definitions apply:
“Controlled Substance” means a drug or other substance identified under schedules I, II, III, IV, or V in section 202c of the Controlled Substances Act (21 U.S.C. 812(c)).

“Illegal Drug” means a controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.

“Serious Bodily Injury” has the meaning given the term “serious bodily injury” under paragraph (3) of subsection (h) of section 1365 of title 18, United States Code.

“Weapon” has the meaning given the term “dangerous weapon” under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code.

31.0. Determination of Setting.

The child’s IEP Team determines the interim alternative educational setting for services in 30.3, 30.4.5 and 30.7.

32.0. Expedited Appeal

32.1. General: The parent of a child with a disability who disagrees with any decision regarding placement in 30.0 and 31.0, or the manifestation determination in 30.5, or an LEA that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or others may appeal the decision by requesting a hearing. The hearing is requested by filing a complaint pursuant to 7.0, 8.1 and 8.2.

32.2. A single, impartial hearing officer appointed by the DOE from its Registry of Impartial Hearing Officers shall make a determination regarding an appeal under paragraph (a) of this section. The hearing officer may:

32.2.1. Return the child with a disability to the placement from which the child was removed if the hearing officer determines that the removal was a violation of 30.0 or that the child’s behavior was a manifestation of the child’s disability; or

32.2.2. Order a change of placement of the child with a disability to an appropriate interim alternative educational setting for not more than forty-five (45) school days if the hearing officer determines that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.

32.2.3. The procedures in 32.1 and 32.2 may be repeated, if the LEA believes that returning the child to the original placement is substantially likely to result in injury to the child or to others.

32.3. Expedited due process hearing:

32.3.1. Whenever a hearing is requested in 32.1, the parents or the LEA involved in the dispute shall have an opportunity for an impartial due process hearing consistent with the requirements of 7.0 and 8.1 through 8.3, and 10.0 through 14.0, and 14 Del.C. Ch. 31, except as provided in 32.3.2 through 32.3.4.

32.3.2. The DOE shall be responsible for arranging the expedited due process hearing, which shall occur within twenty (20) school days of the date the complaint requesting the hearing is received by the DOE. The hearing officer shall make a determination within ten (10) school days after the hearing.

32.3.3. Unless the parents and LEA agree in writing to waive the resolution meeting described in 32.3.3.1 or agree to use the mediation process described in 6.0:

32.3.3.1. A resolution meeting shall occur within seven (7) days of receiving notice of the due process complaint; and

32.3.3.2. The expedited due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within fifteen (15) days of the receipt of the due process complaint.
32.3.4 The decisions on expedited due process hearings are appealable consistent with 14.0.

33.0. Placement During Appeals
When an expedited appeal under 32.0 has been made by either the parent or the LEA, the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period specified in 30.3 and 30.7, whichever occurs first, unless the parent and the DOE or LEA agree otherwise.

34.0. Protections for Children not Determined Eligible for Special Education and Related Services

34.1. General: A child who has not been determined to be eligible for special education and related services under these regulations and who has engaged in behavior that violated a code of student conduct, may assert any of the protections provided for in these regulations if the public agency had knowledge (as determined in accordance with 34.2) that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

34.2. Basis of knowledge: A public agency shall be deemed to have knowledge that a child is a child with a disability if before the behavior that precipitated the disciplinary action occurred:

34.2.1. The parent of the child expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the child, that the child is in need of special education and related services;

34.2.2. The parent of the child requested an evaluation of the child pursuant to 14 DE Admin. Code 925.1.0 through 925.12.0; or

34.2.3. The teacher of the child, or other personnel of the LEA, expressed specific concerns about a pattern of behavior demonstrated by the child directly to the director of special education of the agency or to other supervisory personnel of the agency.

34.3. Exception: A public agency would not be deemed to have knowledge under 34.2 if the parent of the child has not allowed an evaluation of the child pursuant to 14 DE Admin. Code 925.1.0 through 925.12.0; or has refused services under these regulations; or the child has been evaluated in accordance with 14 DE Admin. Code 925.1.0 through 925.12.0 and determined to not be a child with a disability under these regulations.

34.4. Conditions that apply if no basis of knowledge: If a public agency does not have knowledge that a child is a child with a disability (in accordance with 34.2 and 34.3) prior to taking disciplinary measures against the child, the child may be subjected to the disciplinary measures applied to children without disabilities who engage in comparable behaviors consistent with the following requirements:

34.4.1. If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures in 30.0, the evaluation shall be conducted in an expedited manner.

34.4.2. Until the evaluation is completed, the child remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.

34.4.3. If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the agency and information provided by the parents, the agency shall provide special education and related services in accordance with these regulations, including the requirements of 30.0 through 36.0 and section 612(a)(1)(A) of the Act.

35.0. Referral to and Action by Law Enforcement and Judicial Authorities

35.1. Rule of construction: Nothing in these regulations prohibits an agency from reporting a crime committed by a child with a disability to appropriate authorities or prevents Delaware law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.
35.2. Transmittal of records: An agency reporting a crime committed by a child with a disability shall ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the agency reports the crime.

35.2.1. An agency reporting a crime under this section may transmit copies of the child’s special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act.

36.0. Change of Placement Because of Disciplinary Removals

36.1. For purposes of removals of a child with a disability from the child’s current educational placement in 30.0 through 35.0, a change of placement occurs if:

36.1.1. The removal is for more than ten (10) consecutive school days; or

36.1.2. The child has been subjected to a series of removals that constitute a pattern:

36.1.2.1. Because the series of removals total more than ten (10) school days in a school year;

36.1.2.2. Because the child’s behavior is substantially similar to the child’s behavior in previous incidents that resulted in the series of removals; and

36.1.2.3. Because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another; or.

36.1.3. The child has been subjected to a series of in-school removals totaling more than ten (10) school days and it deprives the child from meeting the goals set out in the IEP; progressing in the general curriculum though another setting; and receiving those services and modifications described in the IEP; or the child has been subjected to a series of removals from transportation and it results in the child’s absence from school for more than ten (10) school days.

36.2. The public agency determines on a case by case basis whether a pattern of removals constitutes a change of placement.

36.3. This determination is subject to review through due process and judicial proceedings.

Administrative procedures related to suspension and expulsion

LAWS

(b) The Department shall prescribe rules and regulations:
(26) Establishing, for purposes of student discipline, uniform definitions for student conduct which may result in alternative placement or expulsion, uniform due process procedures for alternative placement meetings and expulsion hearings, and uniform procedures for processing Attorney General's reports. Such regulations shall apply to all districts and charter schools. This paragraph shall not be interpreted to restrict the ability of district and charter schools to determine which student conduct shall result in expulsion or an alternative placement;

14 Del.C. §411. Pupils suspended, expelled, or truant in district of residence.
If a child for whom an application has been submitted pursuant to this chapter has been suspended or expelled, or has been absent from school without a valid excuse for more than 15 school days during a school year, in the district of residence, the board of the receiving district may, in its sole discretion, refuse to consider the application or refuse to approve the application, or refuse to enroll the child in the receiving district until the child has been reinstated in the district of residence, provided, however that nothing in this section shall be construed to enlarge upon the authority of any district to accept for re-enrollment any student who has been expelled from a school district in this State, as such authority is
limited by the provisions of § 4130 of this title. “Valid excuse” shall have the same meaning as in § 2721 of this title.

14 Del.C. §413. Discipline not affected.
Nothing in this chapter shall be deemed to affect or alter district policies with regard to disciplining students, including suspensions or expulsions.

14 Del.C. §701. Authority of teachers and administrators to control the disruptive behavior of students.

(b) While a student is entrusted in their care or supervision, public school teachers, and administrators have the same authority to control the behavior of the student and to discipline or punish the student as a parent, custodian, guardian, or other person similarly responsible for the care and supervision of the student except as provided in §§ 702 and 4112F of this title. The authority includes removing a student from a classroom or school-sponsored activity.

(c) When a teacher removes a student from a classroom or school-sponsored activity in an effort to control the student's disruptive behavior, an on-site school administrator may, upon a written showing of good cause, override the teacher's decision to remove the student from the classroom or school-sponsored activity. Before overriding a teacher's decision, the administrator shall strongly presume that the teacher's decision to remove the student was reasonable and necessary under the circumstances.

(d) When a student is removed from a classroom or school-sponsored activity or is disciplined or punished pursuant to this section, the principal or the principal's designee shall afford the student appropriate due process as required by the federal and State constitutions.

(e) When a student is removed from a classroom or school-sponsored activity, the principal or the principal's designee and the removing teacher shall determine if and when a student may be readmitted to the classroom or school-sponsored activity. If the teacher and principal or principal's designee cannot agree, the superintendent or the superintendent's designee shall make the determination.

(f) When a teacher or school administrator removes a student from a classroom or school-sponsored activity or disciplines or punishes a student, a rebuttable presumption exists that the teacher or administrator acted reasonably, in good faith, and in accordance with State or local board of education policy. The burden of overcoming the presumption shall be upon the student.

(g) Each local board of education shall establish, adopt, publish, and distribute to students in the district and their parents or guardian’s policy or standards that are consistent with the regulations developed under § 122(b)(26) of this title and include all of the following:

   (1) Specify the general circumstances under which a student may be removed from a classroom or school-sponsored activity, consistent with a teacher’s and administrator’s ultimate authority to determine disruptive behavior and to remove a student from a classroom or school-sponsored activity.

   (2) Provide an explanation or examples of “disruptive behavior” set forth in paragraph (a)(2) of this section.

(h) A district shall not establish or adopt a policy or standards that prohibit the removal of a student from a classroom or school-sponsored activity.

(i) No teacher who purports to have acted pursuant to the teacher’s rights established by this chapter shall be found liable for civil damages arising from that action unless that teacher’s conduct shocks the conscience.
14 Del.C. §4122. Parent's failure to attend school conference with superintendent; subpoena to compel attendance.

(a) "Parent" as used in this section means natural parent, adoptive parent, any person legally charged with the care or custody of a student under 18 years of age, or any person who has assumed responsibility for the care of a student under 18 years of age including any person acting as a caregiver pursuant to the provisions of § 202(f) of this title.

(b) When a parent fails to attend, participate or respond to a public school or charter school superintendent's request for a conference to discuss matters involving alleged violations of school rules or regulations by the parent's child, the public school or charter school superintendent or the superintendent's designee may request that the Justice of the Peace Court issue a subpoena to compel the presence of the parent at a conference with the superintendent.

(c) Prior to the issuance of a subpoena to compel the presence of a parent, the superintendent or a designee must provide evidence that the superintendent or a designee has:

(1) Made a reasonable attempt to schedule the conference at a time that does not conflict with the employment hours of the parent; and

(2) Sent written notice of the conference by regular United States mail to the address of record of the parent, which notice shall include the reason for the conference and a statement that failure to schedule or attend the conference may result in the issuance of a subpoena.

(d) After verifying that the superintendent or a designee has sent the required notice, the Justice of the Peace Court may, in its discretion, issue a subpoena pursuant to Justice of the Peace Civil Rule 18 which shall compel the presence of the parent at a conference with the superintendent.

(e) If a parent fails to obey a subpoena properly served under this section, the superintendent may file a motion for an order holding the parent in contempt of court. The Justice of the Peace Court shall have jurisdiction over this matter. A parent found guilty of contempt for failure to appear at a conference after receiving a subpoena may be ordered by the Court to attend school with the student, attend family counseling, and/or comply with such other conditions as the Court may order.

(f) Proceedings against a parent of a suspended or expelled child may also be filed pursuant to subchapter II of Chapter 27 of this title for each day that the child is absent beyond the period of suspension or expulsion without a valid excuse as a result of the parent's failure to attend or schedule a conference after having received notification of the suspension or expulsion.

REGULATIONS


1.0 Written Policy Required

1.1 Each school district and charter school shall have a written policy implementing the Gun-Free Schools Act [(20 U.S.C. §7961)] and complying with 11 Del.C. §1457(j) or its successor statute. At a minimum, the policy must contain the following elements:

1.1.1 A student who is determined to have brought a firearm to school, or to have possessed a firearm at school, shall be expelled for not less than one year.

1.1.2 Modification to the expulsion requirement may be made on a case by case basis by the chief school officer. Any modification to the expulsion requirement must be made in writing to the Department.

1.1.3 The definition of "Firearm" shall be the same as the meaning given to the term in the federal Gun-Free Schools Act.
3.0 Individuals with Disabilities Act Nothing in this regulation shall alter a district or charter school's duties pursuant to the Individuals with Disabilities Education Act.


1.0. Purpose

Pursuant to 14 Del.C. §122(b)(26), this regulation, which applies to all public school districts and charter schools, provides uniform procedures for the following situations: referral of students who warrant consideration for placement outside the Regular School Program into an Alternative Program; placement of students into an Alternative Program; monitoring student progress while in Alternative Placement; return of students back into the Regular School Program from an Alternative Program; Suspensions; and Expulsion hearings.

2.0. Terms and Definitions

In this regulation, the following terms and words shall have the following meaning unless the context clearly indicates otherwise:

"Administration" means administrative staff from a district, school, or charter school.

"Alternative Placement" means the removal of a student from his/her school on a temporary basis for a period of time as determined by the Alternative Placement Team and assignment to an Alternative Program.

"Alternative Placement Packet" means the documents submitted to the Alternative Placement Team including, but not limited to and as applicable, a student's academic information, behavioral information including reason for referral to Alternative Placement, attendance information, Individualized Education Plan (IEP), 504 plan, and immunization records.

"Alternative Placement Team (APT)" means a committee composed of the following: a representative of the Alternative Program staff; a district level coordinator who will be designated by the superintendent; the building level principal, assistant principal or other person as appropriate; the student's Parent; guidance counselor or school social worker; and, if appropriate, a representative from the Department of Services for Children Youth and Their Families (DSCYF) with knowledge of the student's and family's needs. Other individuals may be invited as determined by the APT. The APT reviews and prescribes the appropriate placement for students being considered for Alternative Placement.

"Alternative Placement Team Meeting" means a meeting held by the district/charter school Alternative Placement Team to determine the appropriate educational setting for a student whose behavior is within the defined conduct under 14 DE Admin. Code 614 and who has been recommended for Assignment to an Alternative Program.

"Alternative Program" means a school discipline improvement program that provides Appropriate Educational Services that has been created for students whose behavior(s) is within the defined conduct under 14 DE Admin. Code 614. This includes any programs managed by a school district/charter or the Consortium Discipline Alternative Program.

"Appropriate Educational Services" means instruction and assessment provided by the district/charter and includes access to instructional materials, graded homework and communication with educators so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting a level of proficiency in that curriculum.

"Assignment to an Alternative Program" means student Assignment to an Alternative Program, including Consortium Discipline Alternative Program and any Alternative Program maintained by a district/charter school, until the student has fulfilled the requirements to return to the Regular School Program.
“Attorney General's Report (Juvenile Arrest Warrant and Complaint)” means the Department of Justice's report of alleged out-of-school criminal conduct, regardless of jurisdiction, which shows disregard for the health, safety and welfare of others, including, but not limited to acts of violence, weapons offenses, and drug offenses.

"Board of Education” means the Board of Education of a reorganized school district or the Board of Directors of a charter school.

"Building Level Conference” means a meeting which is held by phone or in person between the Principal, other appropriate school staff members as determined by the Principal, a student and a student's Parent to discuss the student's misconduct relative to a recommendation for Suspension, Alternative Placement, or Expulsion.

"Consortium Discipline Alternative Program” means a school discipline improvement program which serves an organized consortium of school districts and/or charter schools as provided for in 14 Del.C. Ch. 16.

"Disciplinary Action" means the student identified for Short or Long-Term Suspension, Expulsion, or Alternative Placement who may be excluded from all school activities, including but not limited to, extracurricular sports/programs, field trips, and ceremonies; is not allowed on School Property unless placed in an Alternative Placement on School Property.

"Discipline Record" means all information about Disciplinary Action taken against a specific student as a result of any infraction of the school's/district's Student Code of Conduct or other rules.

"Expulsion" means Disciplinary Action approved by the Board of Education resulting in a student being removed from the Regular School Program for a duration not to exceed the total number of student days in a school year. A student expelled without Appropriate Educational Services shall be unenrolled from the district/charter during the term of the expulsion. Regardless of whether without or with services, including Alternative Placement, the expelled student is not eligible to enroll in any other Delaware public school during the period of the Expulsion and until any reasonable terms of the Expulsion are fulfilled.

"Grievance” means a formal complaint, filed per specific district/charter procedures, to school Administration regarding a student's rights or liberty interests having been denied or impaired. At a minimum, the procedures shall be similar to the Grievance Guidelines applicable to this regulation, as posted on the Department of Education website.

"Hearing Officer” means an official appointed by the district/charter to conduct a formal due process hearing for a student recommended for Disciplinary Action which requires a formal due process hearing. The Hearing Officer may be an employee of the district or charter school, but shall not have been involved in any review of the student incident at the building or district level.

"In-School Alternative Program” means a School-Based Intervention Program (SBI) as described in 14 DE Admin. Code 609. Placement is determined by the school's Student Intervention Team as described in 14 DE Admin. Code 609. The program design includes the student's regular curriculum, as well as character education, social skills development, conflict resolution, access to counseling services and behavior modification strategies.

"Intake Form” means the checklist used during the student Intake Meeting which ensures the inclusion of behavioral, academic, and other necessary information to facilitate the placement of a student at a Consortium Discipline Alternative Program.

"Intake Meeting” means the meeting at an Alternative Program site which includes the student, the Parent, district/charter school representative, program administrator and other appropriate Alternative Program staff. At this meeting the program's rules and expectations are reviewed, paperwork that
requires student and Parent signatures is completed, and the district's/charter school's individualized goals and expectations for the alternatively-placed student are reviewed.

"Outside Agency" means any agency from which a student has received services, but does not include an Alternative Program. Examples include, but are not limited to: judicial placement, youth detention facility, substance abuse facility, and mental health facility.

"Parent" means a biological or adoptive parent of a child; a guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State); an individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives and for whom a Relative Caregiver's School Authorization executed in compliance with 14 Del.C. §202(f)(1) is on file; an individual or entity who is otherwise legally responsible for the child's welfare; a surrogate parent who has been appointed in accordance with 14 DE Admin. Code 926.19; or a student who has reached the age of majority as defined in 1 Del.C. §701.

"Principal" means the building principal, or the equivalent of the building principal, of any district or charter school, or the principal's designee.

"Regular School Program" means student enrollment in a public school, not including specially assigned non-special education or student behavioral intervention programs within or outside the enrolled school, in which the student's classroom or course placement is based primarily on age, grade level and cognitive abilities as assigned by the school Administration or an IEP team and the student's participation in daily course instruction and activities within the assigned classroom or course.

"Repeated Violations of Student Code of Conduct" means five or more violations of the school's Student Code of Conduct within a school year, excluding chronic infractions for tardiness or unexcused absences to school/class.

"School Discipline Committee" means a school-level committee consisting of appropriate school personnel, similar to those identified in 14 Del.C. Ch. 16, which meets to decide on student Disciplinary Action recommendations made by the Principal.

"School Environment" means within or on School Property, and at school sponsored or supervised activities, including, for example, on school grounds, on school buses, at functions held on school grounds, at school sponsored extracurricular activities held on and off school grounds, on field trips and at functions held at the school in the evening.

"School Property" means any building, structure, athletic field, sports stadium or real property that is owned, operated, leased or rented by any public school district or charter school including, but not limited to, any kindergarten, elementary, secondary, or vocational-technical school or charter school, or any motor vehicle owned, operated, leased, rented or subcontracted by any public school or charter school.

"Student Code of Conduct" means the district/charter school approved document which specifies the rights and responsibilities of students, defines conduct that disrupts/threatens a positive/safe School Environment, standardizes procedures for consequences and Disciplinary Action, and defines due process and Grievance procedures.

"Student Review" means a formal meeting that takes place at the Alternative Program with the district/charter school representative, the Alternative Program Administrator, and other appropriate Alternative Program staff to determine to what degree the student currently placed in the Alternative Program is progressing toward their behavioral and academic goals as determined during the student's Intake Meeting. The student and Parent shall be invited to attend this meeting.

"Superintendent" means the chief school officer of any public school district or charter school, or the equivalent of a superintendent, or the superintendent's designee.
"Suspension, Long-term (Long-term Suspension)" means Disciplinary Action approved by the Superintendent upon recommendation of the Principal or District Alternative Placement Team resulting in the student being removed from the Regular School Program for eleven (11) consecutive school days or more and not to exceed the total number of school days in a school year. Student chooses to waive his right to a formalized due process hearing as outlined in Section 10.0 of this regulation, maintains enrollment in the district/charter, and is provided Appropriate Educational Services during the term of the suspension, but is excluded from all school activities including, but not limited to, extracurricular sports/programs, field trips, and ceremonies. Student is not allowed on School Property when suspension is out-of-school. A Long-term Suspension requires initial due process procedures as outlined in Section 4.0 of this regulation and the student choosing to waive his right to a formalized due process hearing as outlined in Section 10.0 of this regulation.

"Suspension, Short-term (Short-term Suspension)" means Disciplinary Action approved by the Principal or School Discipline Committee resulting in the student being removed from his Regular School Program for at least one (1) school day and not more than ten (10) consecutive school days. Student maintains enrollment in district/charter, but is excluded from all school activities including, but not limited to extracurricular sports/programs, field trips, and ceremonies. Student is not allowed on School Property when Short-term Suspension is out-of-school. A Short-term Suspension requires initial due process procedures as outlined in subsection 5.1 of this regulation.

"Transition Meeting" means a meeting to discuss the student's return to the Regular School Program which takes place at the school in which the student is enrolled, with the Alternative Program representative, the district/charter school representative, the student, the Parent, a school administrator, a teacher, a school counselor, a student advisor or disciplinarian if assigned, or other representative.

"Violent Felony" means a crime designated in 11 Del.C. §4201(c).

3.0. Preliminary Discipline Investigation & Reporting Requirements

3.1. Investigatory Procedures & Timeline

3.1.1. In any instance when student Disciplinary Action which may result in removal of the student out of the Regular School Program for one day or more is contemplated, the Principal shall conduct a preliminary investigation to determine if there is reasonable basis to pursue Disciplinary Action.

3.1.1.1. The Principal may remove the allegedly offending student from the general student population while conducting the preliminary investigation if the student's presence in the School Environment poses a threat to the health, safety, or welfare to persons or property within the School Environment, as determined by the Principal. Initial due process in accordance with subsection 4.2.1 of this regulation shall be provided.

3.1.1.2. When obtaining written statements from witnesses, reasonable efforts may be made to notify the Parent of each witness.

3.1.1.3. Reasonable efforts shall be made to include the allegedly offending student or Parent in the preliminary investigation.

3.1.2. The investigation shall be completed within three (3) school days of the date the incident in question was reported.

3.1.3. The Principal shall confiscate any contraband as defined in the Student's Code of Conduct or under the School's policy or state or federal law, which may be used for criminal/juvenile delinquency proceedings. Such contraband shall be labeled and secured in a locked area. Any confiscated contraband, or that reasonably understood to be illegal contraband, which may be used for criminal/juvenile proceedings shall be turned over to the appropriate police agency as soon as practicable.

3.2. Reporting Requirements
3.2.1. If the investigation reveals that there is reliable information that would lead a reasonable person to believe that a mandatorily reportable crime under 14 Del.C. §4112 has been committed, the Principal shall immediately notify the appropriate law enforcement agency of the incident.

3.2.1.1. All reports to the appropriate law enforcement agency must be made immediately by telephone or in person and shall be followed by a written report of the investigation within three (3) business days.

3.2.2. The Principal shall report all offenses listed as a mandatory report to the Department of Education under 14 Del.C. §4112 and 14 DE Admin. Code 601 within five (5) business days of the incident by completing the information in the eSchoolPlus discipline center or successor Delaware Department of Education approved student database management application.

4.0. Initial Due Process

4.1. A student shall be afforded initial due process rights for discipline procedures which result in the removal of the student for one day or more from the Regular School Program due to a violation of the school's Student Code of Conduct.

4.1.1. Prior to any removal of one day or more from the Regular School Program due to a violation of the school's Student Code of Conduct:

4.1.1.1. The student had prior opportunity to be informed in accordance with the established Student Code of Conduct rules and/or regulations.

4.1.1.2. The administrator/designee shall inform, orally or in writing, the student of the allegation(s) against him/her, the conduct which forms the basis of the allegation(s), and the policy, rule, or regulation violated.

4.1.1.3. The student shall be given an explanation of the evidence supporting the allegation(s) and an opportunity to present his/her side of the story including any evidence.

4.2. Due Process Delay Provision

4.2.1. A student whose presence in the School Environment poses a threat to the health, safety, or welfare to persons or property within the School Environment, as determined by the Principal, may be immediately removed from school provided that, as soon as practicable thereafter, the initial due process procedures outlined in subsection 4.1 of this regulation are followed.

4.3. In addition to the initial due process rights, a student who is recommended for Alternative Placement or Expulsion shall receive applicable additional due process rights as outlined in Sections 7.0, 10.0, and 11.0 of this regulation.

5.0. Suspensions

5.1. Short-term Suspension

5.1.1. The Principal, in accordance with the rules of the district/charter school, shall have the right to impose a Short-term Suspension on any student in the school who has violated the school's Student Code of Conduct. The duration of the Short-term Suspension shall not be more than ten (10) consecutive school days for any single conduct violation or combination of violations which occurred during a single disciplinary incident.

5.1.2. The Superintendent, in accordance with the rules of the district/charter school, shall have the right to temporarily extend a student's Short-term Suspension beyond the ten school day limit pending a district/charter Alternative Placement Meeting decision or the district/charter's Board of Education decision regarding an Expulsion hearing or other formalized Disciplinary Action hearing for the student.

5.1.2.1. A student whose Short-term Suspension has been temporarily extended beyond ten (10) consecutive school days shall receive Appropriate Educational Services beginning on the first day
of the extension. Educational services shall continue until the student's district/charter Alternative Placement Meeting decision has been rendered or the district/charter’s Board of Education decision regarding the student's Expulsion hearing or other formalized Disciplinary Action hearing has concluded. This does not preclude a district/charter from providing Appropriate Educational Services during a Short-term Suspension prior to the extension.

5.2. Long-term Suspension

5.2.1. The Superintendent, in accordance with the rules of the district/charter school, shall have the right to impose a Long-term Suspension on any student in the school who has violated the school's Student Code of Conduct's listed acts of misconduct as defined in 14 DE Admin. Code 614.3. The duration of the Long-term Suspension shall not exceed the number of school days in a school year for any single conduct violation or combination of violations which occurred during a single disciplinary incident.

5.3. Prior to any Suspension from school, the initial due process procedures outlined in subsection 4.1 of this regulation shall be followed unless temporarily delayed as allowed in subsection 4.2 of this regulation.

5.4. When a student receives a Suspension from school (in or out-of-school), reasonable attempts to provide verbal notification to the Parent shall be made by the Principal prior to the Suspension being served. Written notification of the Suspension and information regarding the districts/charters appeal or Grievance process shall be given or sent to the Parent as soon as practicable, but no later than three business days. The notification shall state the cause and duration of the Suspension.

5.4.1. The Parent or student may appeal the Suspension to the next administrative level in accordance with the district/charter's appeal or Grievance process.

5.5. Prior to the student's return from an out-of-school Suspension of three (3) school days or more, the Principal shall hold an in-person or phone conference with the Parent and student. A definite time, date, and place for the conference shall be designated by the Principal. The Principal may waive this conference requirement.

6.0. Requirement of Grievance Process

6.1. Each district/charter school shall have a written Grievance procedure. The district/charter school shall have the written Grievance procedures available for Parent review.

6.2. Grievance procedures, shall, at a minimum, be similar to the Grievance guidelines applicable to this regulation as posted on the Department of Education's website.

7.0. Assignment to an Alternative Program

7.1. Procedures for Student Referral

7.1.1. Criteria for student referral to an Alternative Placement.

7.1.1.1. A Principal may refer a student for Alternative Placement for any severe disciplinary violation for which Alternative Placement may be a consequence as specified in the district/charter school Student Code of Conduct and the student's behavior is within the defined conduct under 14 DE Admin. Code 614.

7.1.1.2. A Principal may refer a student for Alternative Placement for any offense listed in 14 Del.C. §4112. Students ineligible as a result of an offense listed in 14 DE Admin. Code 611 shall not be referred to a Consortium Discipline Alternative Program.

7.1.1.3. A Principal may refer a student for Alternative Placement in conjunction with an Attorney General's Report or court disposition that indicates that the student has been charged with a Violent Felony and/or is a threat to the health, safety, and welfare of others within the School Environment.
Students ineligible as a result of an offense listed in 14 DE Admin Code 611 shall not be referred to a Consortium Discipline Alternative Program.

7.1.1.4. A Principal may refer a student for Alternative Placement in conjunction with chronic disruptive behaviors which result in Repeated Violations of the Student Code of Conduct after all school-based best practice interventions have been put into place for said student. This may include, but is not limited to, counseling services, the development and implementation of a behavior support or modification plan, mentoring, referral to mediation, and participation in an available In-School Alternative Program.

7.1.1.5. Referral to a state funded Consortium Discipline Alternative Program must also meet the criteria set forth in 14 DE Admin. Code 611.

7.1.1.5.1. A referral of a charter school student to a Consortium Discipline Alternative Program shall also comply with the provisions of 14 Del.C. §504A(8).

7.2. Responsibilities for Student Referral Which May Lead to Alternative Program Placement

7.2.1. When it is alleged that a student committed a violation of the Student Code of Conduct and may be subject to a recommendation for Alternative Placement, the following procedures shall occur:

7.2.1.1. The Principal shall conduct a preliminary investigation pursuant to Section 3.0 of this regulation to determine if there is reasonable basis to pursue Disciplinary Action.

7.2.1.2. If the preliminary investigation verifies that Disciplinary Action may be warranted, initial due process procedures outlined in Section 4.0 of this regulation shall be followed.

7.2.1.3. After the student has been afforded initial due process procedures, and if the Principal decides that Disciplinary Action will be taken, the student and Parent shall be notified.

7.2.1.4. The Principal may impose a Short-term Suspension. If the student is suspended, the student and the Parent shall be provided a copy of a Suspension form that includes a written notice of the Student Code of Conduct violation(s).

7.2.1.5. If the Principal decides that the Disciplinary Action should be a referral for an Alternative Placement, the Principal shall compile an Alternative Placement Packet for the student. The Alternative Placement Packet may also include other relevant information at the discretion of the Principal.

7.2.1.5.1. Schools/charters which utilize a site-based School Discipline Committee may have the committee meet to discuss the incident and make a recommendation to the Principal for the student to remain in the current school setting, or for referral to an Alternative Program.

7.2.1.6. A charter school Principal shall verify that the Alternative Placement referral meets the conditions set forth in 14 Del.C. §504A(8).

7.2.1.7. For all referrals for Alternative Placement for a general education or special education student, the Principal shall hold a Building Level Conference with the Parent and the student.

7.2.1.7.1. The Principal shall explain to the Parent and the student the purpose of the meeting is to inform them: 1) of the referral for Alternative Placement; 2) that the student may be suspended pending the outcome of the district/charter school Alternative Placement Team Meeting and; 3) of the procedures that will take place as follow-up to the referral for Alternative Placement.

7.2.1.7.2. The conference shall be held by phone or in person.

7.2.1.7.3. The Principal shall have at least one other person present to take notes during the conference or shall have the conference audio recorded.

7.2.1.8. Notice of the Alternative Placement Meeting shall be mailed to the Parent and the student via regular U.S. and certified mail at least five business days before the meeting is to occur.

7.3. Alternative Placement Meeting for Districts/Charter Schools
7.3.1. A district/charter school Alternative Placement Meeting shall take place to determine if an alternative setting is appropriate for a referred student.

7.3.1.1. The Parent and student shall receive verbal and written notification of the district/charter school's Alternative Placement Meeting. Parents and student may, but are not required to, attend the meeting.

7.3.1.2. The Parent and student shall be informed of the district/charter school Alternative Placement Team's decision for placement within one (1) business day of the meeting.

7.3.1.2.1. If the decision is to assign to an Alternative Placement, the Superintendent shall send follow-up written notice within three (3) business days to the Parent describing the circumstances which led to the placement, identifying the Alternative Program to which the student is being assigned, and the conditions which must be met in order for the student to return to the Regular School Program.

7.4. Student Assignment to an Alternative Program

7.4.1. The district/charter school representative shall contact the selected Alternative Program to set up a date and time for an Intake Meeting.

7.4.1.1. The Intake Meeting shall not occur unless all required participants are present, unless excused by the Superintendent, and documentation from the Alternative Placement Packet is provided.

7.4.1.1.1. Participants required to be present at the Intake Meeting include, but are not limited to, the student, the Parent, a district/charter school representative, the Alternative Program administrator, and other appropriate Alternative Program staff.

7.4.1.2. A student assigned to a Consortium Discipline Alternative Program must be registered in a district/charter school before the Intake Meeting is held.

7.4.1.3. The Intake Meeting will include the completion of necessary forms, including the Intake Form, which requires student and Parent signatures.

7.4.1.4. During the Intake Meeting, the district/charter school representative shall communicate, to all in attendance, the district/charter school's individualized goals and expectations for the alternatively placed student, including the Individualized Service Plan (ISP) under 14 DE Admin. Code 611, if applicable. The individualized goals and expectations shall be recorded on the Intake Form.

7.4.1.4.1. The Intake Form shall be signed by all parties, copied and distributed to the student and Parent, Alternative Program administrator, and district/charter school representative and shall become part of the student's educational record as defined by 14 DE Admin. Code 252.

7.4.2. The district/charter school shall maintain all alternatively placed students' enrollment status in Delaware Student Identification System (DELSIS) and eSchool PLUS database systems or successor Delaware Department of Education approved student database management system. A student placed in a Consortium Discipline Alternative Program shall have both an "active" and "service" status designation in DELSIS.

8.0. Procedures for Student Monitoring while in Alternative Placement

8.1. A Student Review for each student in the Alternative Program shall be completed. Quarterly reviews are recommended. Semi-annual reviews are required.

8.1.1. The Student Review shall include an examination of student attendance, grades and Discipline Records, including the student's strengths and weaknesses in connection with their individualized goals and expectations at the time of the Student Review.
8.1.2. The Student Review shall also include recommendations for continued progress and/or return (or recommendation not to return) to the Regular School Program.

9.0. Procedures for Student Return to the Regular School Program

When a Student Review results in a recommendation for return to the comprehensive school setting, a Transitional Meeting at the student's comprehensive school will be held between the Alternative Program representative, the district/charter school representative, the student, the Parent, the school administrator, a teacher, a school counselor, a student advisor or disciplinarian, if assigned. Other individuals may be invited as determined by the members of the Transitional Meeting team. This meeting shall take place prior to a student's return to that comprehensive school and shall result in a document setting forth the terms of the return.

10.0. Procedures for the Expulsion of Students

10.1. When it is alleged that a student committed a violation of the Student Code of Conduct and may be subject to a recommendation for Expulsion, the following procedures shall be followed.

10.1.1. The Principal shall conduct a preliminary investigation pursuant to Section 3.0 of this regulation to determine if there is reasonable basis to pursue Disciplinary Action.

10.1.2. If the investigation verifies that Disciplinary Action may be warranted, initial due process procedures outlined in Section 4.0 of this regulation shall be followed.

10.2. After the student has been afforded initial due process procedures, if the Principal decides that Disciplinary Action in the form of a recommendation for Expulsion will be made, the following procedures shall be followed:

10.2.1. Student will be given written notice of charges and the Parent shall be notified verbally and in writing as soon as practicable thereafter.

10.2.2. The student shall be given a Short-term Suspension pursuant to the criteria outlined in Section 6.0 of this regulation. The Parent shall be provided a copy of a Suspension form that includes a written notice of the Student Code of Conduct violation(s).

10.2.3. The Principal shall hold a Building Level Conference with the Parent and the student. The Principal shall explain to the Parent and the student the purpose of the meeting is to inform them: 1) of the recommendation for Expulsion; 2) that the student will be serving a Short-term Suspension pending the outcome of the Expulsion hearing and; 3) of the procedures that will take place as follow-up to the recommendation for Expulsion.

10.2.3.1. The conference shall be held by phone or in person.

10.2.3.2. The Principal shall have at least one other person present to take notes during the conference or shall have the conference audio recorded.

10.2.4. All documentation related to the recommendation for Expulsion shall be delivered to the Superintendent within two (2) business days of the Building Level Conference or seven (7) business days of the incident, whichever is sooner.

10.3. Expulsion Hearings

10.3.1. Upon receipt of a recommendation following the Building Level Conference, the Superintendent shall review documentation to affirm that appropriate discipline procedures were followed. The Superintendent shall, within ten (10) business days of the date of the incident, notify the student and the Parent by letter that a district-level Expulsion hearing will be held to consider the recommendation.

10.3.1.1. The Superintendent shall not have been a participant in the disciplinary investigation or Building Level Conference resulting in the recommendation for Expulsion.
10.3.2. Written notice shall, at a minimum, be sent by regular U.S. and certified mail to the Parent describing the circumstances which led to the recommendation for Expulsion and shall give the date, time, and location of the hearing.

10.3.3. The hearing shall be held not less than seven (7) business days or more than twenty (20) business days after receipt of written notice. The written notice shall be deemed to be received on the fourth business day following the day of mailing. This time period may be waived by agreement of the parties. A copy of the documentation shall be made available, upon request, to the student and Parent at the district/charter school office prior to the mailing.

10.3.4. If requested, the student and Parent will also be given a copy of the following:
   10.3.4.1. The reason(s) for the recommendation;
   10.3.4.2. The name(s) of witnesses who may appear; and
   10.3.4.3. Copies of information that may be submitted as evidence.

10.3.5. The district/charter shall receive written Parent permission for any witness who is a minor.

10.3.6. The hearing shall be conducted by a district/charter Board of Education or Hearing Officer.

10.3.7. The Board of Education or Hearing Officer shall have full authority to admit or exclude evidence.
   10.3.7.1. Evidence presented at the Expulsion hearing may include, but is not limited to, witness statements, police or Attorney General's Reports, and photocopies of evidence.
   10.3.7.2. The Board of Education or Hearing Officer is not bound by common law or statutory rules of evidence or by technical or formal rules of procedure except as herein stated.
   10.3.7.3. The Board of Education or Hearing Officer may exclude plainly irrelevant, immaterial, insubstantial, cumulative and privileged evidence.
   10.3.7.4. The Board of Education or Hearing Officer may limit unduly repetitive proof, rebuttal and cross examination.

10.3.8. In conducting the hearing, the district/charter school shall submit evidence first followed by the response of the student, if any.
   10.3.8.1. Further evidence by either party may be presented at the hearing if the Board of Education or Hearing Officer determines such evidence is necessary.

10.3.9. The Superintendent presenting the case on the part of the district/charter school shall not testify.

10.3.10. The hearing shall be recorded in a manner that will permit transcription.

10.3.11. The student shall have the following rights:
   10.3.11.1. To be represented by legal counsel at the student's expense;
   10.3.11.2. To cross-examine witnesses;
   10.3.11.3. To testify and produce witnesses on his/her behalf; and
   10.3.11.4. To obtain, at the student's expense, a copy of the transcript of the hearing.

10.3.12. In lieu of a formal Expulsion hearing, a student may elect to waive the hearing and admit to the student’s violation charge(s). The student and Parent shall submit a signed written hearing waiver which indicates that the student is knowingly and voluntarily waiving their right to the hearing. Such election may be exercised until the commencement of the hearing. This waiver does not absolve the student from required consequences under Federal or State Law or the Student Code of Conduct.

10.4. Expulsion Decision by Board of Education
10.4.1. Decision after Hearing Officer Presides over Hearing

10.4.1.1. Within five (5) business days following the conclusion of an Expulsion hearing conducted by a Hearing Officer, a written report shall be prepared by the Hearing Officer for the Superintendent.

10.4.1.1.1. The report shall frame the issues, summarize the evidence, state conclusions of fact, and make a recommendation as to whether the student should be expelled.

10.4.1.2. The Board of Education shall make its decision at the next scheduled public Board Meeting or additional scheduled public board meeting for the sole purpose of deciding on the student disciplinary matter in question.

10.4.1.2.1. The Board shall conduct a review of the Hearing Officer's recommendation. The Board may accept, reject, or modify the recommendation of the Hearing Officer. The Board's decision shall be in writing in accordance with subsection 10.4.5 of this regulation and shall be based solely upon the report from the Hearing Officer and the record of the Expulsion hearing, if any.

10.4.2. Decision after Board of Education Presides over Hearing

10.4.2.1. Following the conclusion of an Expulsion hearing conducted by the Board of Education, the Board shall frame the issues, summarize the evidence, state conclusions of fact and render its decision.

10.4.2.2. The Board's decision shall be in writing in accordance with subsection 10.4.5 and shall be based solely upon the record of the Expulsion hearing of which it presided over.

10.4.3. Decision After Waiving of Hearing Rights and Admission to Violation Charges

10.4.3.1. Within five (5) business days following the waiving of hearing rights and admission of violation charges, the Superintendent shall prepare a report for the Board of Education's action at it's next public board meeting or an additional scheduled public board meeting for the sole purpose of deciding on the student disciplinary matter in question.

10.4.4. Eligible expelled students shall be placed in a Consortium Discipline Alternative Program in accordance with 14 Del.C. §1604 and 14 DE Admin. Code 611. The Board shall determine if the students not eligible for placement in a Consortium Discipline Alternative Program shall be expelled with or without Appropriate Educational Services.

10.4.5. Any decision to expel a student shall be reported to the Delaware Department of Education within five (5) business days of the Board's decision to expel. When a Board of Education expels a student, but determines the student shall not be placed at a Consortium Discipline Alternative Program, the written decision shall address with specificity the reason for non-placement and the evidence in support thereof. Such decisions shall be submitted to the Delaware Department of Education's Office of School Climate and Discipline within five business days of such decision, with a copy to the student's Parent.

10.4.6. Except as is otherwise provided herein, within ten (10) business days of the decision by the Board, the Board, through its designee, shall submit its decision to the Superintendent and Parent and student in writing. The written decision shall include notice of the right to appeal to the State Board of Education.

10.5. Calculation of Time

10.5.1. In calculating the period of time for the term of the Expulsion, school days will be used. Students receiving residential services from a Department of Services for Children, Youth and Their Families (DSCYF) program shall have the amount of school days served in such program counted as part of the calculation of time for an Expulsion. This does not preclude a district/charter from
transitioning a student from a YRS program to the Regular School Program through an Alternative Program. However, transition through an Alternative Program is not required.

11.0. Students with Disabilities

11.1. Nothing in this regulation shall alter a district/charter school's duties under the Individual with Disabilities Act (IDEA) or 14 DE Admin. Code 922 through 929. Nothing in this regulation shall prevent a district/charter school from providing supportive instruction to children with disabilities in a manner consistent with the Individuals with Disabilities Education Act (IDEA) and Delaware Department of Education regulations.

11.2. Nothing in this regulation shall alter a district/charter school's duties under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act to students who are qualified individuals with disabilities. Nothing in this regulation shall prevent a district/charter School from providing supportive instruction to such students.

In-school suspension

LAWS
No relevant laws found.

REGULATIONS
No relevant regulations found.

Return to school following removal

LAWS

14 Del.C. §701. Authority of teachers and administrators to control the disruptive behavior of students.

(e) When a student is removed from a classroom or school-sponsored activity, the principal or the principal's designee and the removing teacher shall determine if and when a student may be readmitted to the classroom or school-sponsored activity. If the teacher and principal or principal's designee cannot agree, the superintendent or the superintendent's designee shall make the determination.

14 Del.C. §4130. Expulsion of students; re-enrollment.

(a) In any case where a public school student is expelled from a school district or a charter school, the expelled student shall not be permitted to reenroll in any other school district or charter school in this State until after the full period of expulsion from the school district or charter school where the student was expelled shall have expired.

(b) Prior to enrolling any student who attempts to transfer to a school district or charter school in this State, the superintendent of that school district, or the superintendent's designee, the head of a charter school or such head's designee shall first contact the last school district or charter school where the student was last enrolled, if in this State, to determine if that student is under a current expulsion order in that district or charter school. If it is determined that the student is under a current expulsion order, that student shall not be permitted to enroll until the expulsion order has expired as set forth in subsection (a) of this section.

(c) Any student who has been expelled from a public school in this State or in any other state shall, prior to enrollment in any public school in this State, completely fulfill the terms of that expulsion.
(d) The provisions of subsections (a), (b) and (c) of this section shall not apply to any case in which a student is seeking to enroll in the James H. Grove High School or in any alternative educational or other related program developed to provide educational services to children who have discipline problems.

REGULATIONS

14 DE Admin. Code §612. Possession, use or distribution of drugs and alcohol.

4.0. Requirement of Each School District and Charter School to have a Policy

4.1. Each school district and charter school shall have a policy on file and update it periodically. The policy shall include, at a minimum, the following:

4.1.9. A policy which sets out the conditions for return after expulsion for Alcohol or Drug infractions.

Use of restraint and seclusion

LAWS

11 Del.C. §468. Justification - Use of force by persons with special responsibility for care, discipline or safety of others.

The use of force upon or toward the person of another is justifiable if it is reasonable and moderate and:

1. The defendant is the parent, guardian, foster parent, legal custodian or other person similarly responsible for the general care and supervision of a child, or a person acting at the request of a parent, guardian, foster parent, legal custodian or other responsible person, and:
   a. The force is used for the purpose of safeguarding or promoting the welfare of the child, including the prevention or punishment of misconduct; and
   b. The force used is intended to benefit the child, or for the special purposes listed in paragraphs (2) a., (3)a., (4)a., (5), (6) and (7) of this section. The size, age, condition of the child, location of the force and the strength and duration of the force shall be factors considered in determining whether the force used is reasonable and moderate; but
   c. The force shall not be justified if it includes, but is not limited to, any of the following: Throwing the child, kicking, burning, cutting, striking with a closed fist, interfering with breathing, use of or threatened use of a deadly weapon, prolonged deprivation of sustenance or medication, or doing any other act that is likely to cause or does cause physical injury, disfigurement, mental distress, unnecessary degradation or substantial risk of serious physical injury or death; or

2. The defendant is a teacher or a person otherwise entrusted with the care or supervision of a child for a special purpose, and:
   a. The defendant believes the force used is necessary to further the special purpose, including the maintenance of reasonable discipline in a school, class or other group, and that the use of force is consistent with the welfare of the child; and
   b. The degree of force, if it had been used by the parent, guardian, foster parent or legal custodian of the child, would be justifiable under paragraph (1)a. and b. of this section and not enumerated under paragraph (1)c. of this section; or

3. The defendant is the guardian or other person similarly responsible for the general care and supervision of a person who is incompetent, and:
   a. The force is used for the purpose of safeguarding or promoting the welfare of the person who is incompetent, including the prevention of misconduct, or, when such person who is incompetent is in a
hospital or other institution for care and custody, for the maintenance of reasonable discipline in such
institution; and
b. The force used is reasonable and moderate; the size, age, condition of the person who is
incompetent, location of the force and the strength and duration of the force shall be factors
considered in determining whether the force used is reasonable and moderate; and
c. The force is not enumerated under paragraph (1)c. of this section; and
d. The force is not proscribed as abuse or mistreatment under Chapter 11 of Title 16;

14 Del.C. §701. Authority of teachers and administrators to control the disruptive behavior of
students.
(a) As used in this chapter:
(1) "Department" means the Department of Education.
(2) "Disruptive behavior" means conduct that is so unruly, disruptive, or abusive that it seriously
interferes with a school teacher's or school administrator's ability to communicate with the students in a
classroom, with a student's ability to learn, or with the operation of a school or a school-sponsored
activity.
(3) "Racial subgroup" means the racial and ethnic subgroups of students as defined under the
includes African American or Black, American Indian or Alaska Native, Asian American, Native
Hawaiian or other Pacific Islander, Hispanic or Latino, White or Caucasian, and Multi-Racial.
(4) "School" means a traditional public school, vocational technical school, or charter school.
(5) "Subgroup" means as subgroup is defined under the Elementary and Secondary Education Act of
1965, 20 U.S.C. § 6301 et seq., as amended, which includes racial subgroups, economically
disadvantaged students, children with disabilities, and English learners.
(b) While a student is entrusted in their care or supervision, public school teachers, and administrators
have the same authority to control the behavior of the student and to discipline or punish the student as a
parent, custodian, guardian, or other person similarly responsible for the care and supervision of the
student except as provided in §§ 702 and 4112F of this title. The authority includes removing a student
from a classroom or school-sponsored activity.
(c) When a teacher removes a student from a classroom or school-sponsored activity in an effort to
control the student's disruptive behavior, an on-site school administrator may, upon a written showing of
good cause, override the teacher's decision to remove the student from the classroom or school-
sponsored activity. Before overriding a teacher's decision, the administrator shall strongly presume that
the teacher's decision to remove the student was reasonable and necessary under the circumstances.
(d) When a student is removed from a classroom or school-sponsored activity or is disciplined or
punished pursuant to this section, the principal or the principal's designee shall afford the student
appropriate due process as required by the federal and State constitutions.
(e) When a student is removed from a classroom or school-sponsored activity, the principal or the
principal's designee and the removing teacher shall determine if and when a student may be readmitted
to the classroom or school-sponsored activity. If the teacher and principal or principal's designee cannot
agree, the superintendent or the superintendent's designee shall make the determination.
(f) When a teacher or school administrator removes a student from a classroom or school-sponsored
activity or disciplines or punishes a student, a rebuttable presumption exists that the teacher or
administrator acted reasonably, in good faith, and in accordance with State or local board of education
policy. The burden of overcoming the presumption shall be upon the student.
(g) Each local board of education shall establish, adopt, publish, and distribute to students in the district and their parents or guardian's policy or standards that are consistent with the regulations developed under § 122(b)(26) of this title and include all of the following:

(1) Specify the general circumstances under which a student may be removed from a classroom or school-sponsored activity, consistent with a teacher's and administrator's ultimate authority to determine disruptive behavior and to remove a student from a classroom or school-sponsored activity.

(2) Provide an explanation or examples of "disruptive behavior" set forth in paragraph (a)(2) of this section.

(h) A district shall not establish or adopt a policy or standards that prohibit the removal of a student from a classroom or school-sponsored activity.

(i) No teacher who purports to have acted pursuant to the teacher's rights established by this chapter shall be found liable for civil damages arising from that action unless that teacher's conduct shocks the conscience.

14 Del.C. § 4112F. Limitations on use of seclusion and restraint.

(a) Definitions. The following words, terms, and phrases when used in this section, shall have the meaning ascribed to them except where the context clearly indicates a different meaning:

(1) "Chemical restraint" means a drug or medication used on a student to control behavior or restrict freedom of movement that is either not medically prescribed for the standard treatment of a student's medical or psychiatric condition or not administered as prescribed.

(2) "Mechanical restraint" means the application of any device or object that restricts a student's freedom of movement or normal access to a portion of the body that the student cannot easily remove. "Mechanical restraint" does not include devices or objects used by trained school personnel, or used by a student, for the specific and approved therapeutic or safety purposes for which they were designed and, if applicable, prescribed, including the following:

a. Restraints for medical immobilization;

b. Adaptive devices or mechanical supports used to allow greater freedom of movement stability than would be possible without use of such devices or mechanical supports;

c. Vehicle safety restraints when used as intended during the transport of a student in a moving vehicle;

d. Instruction and use of restraints as part of a criminal justice or other course; or

e. Notwithstanding their design for other purposes, adaptive use of benign devices or objects, including mittens and caps, to deter self-injury.

(3) "Physical restraint" means a restriction imposed by a person that immobilizes or reduces the ability of a student to freely move arms, legs, body, or head. "Physical restraint" does not include physical contact that:

a. Helps a student respond or complete a task;

b. Is needed to administer an authorized health-related service or procedure; or

c. Is needed to physically escort a student when the student does not resist or the student's resistance is minimal.

(4) "Public school personnel" means an employee or contractor of a public school district or charter school. "Public school personnel" does not include the following:

a. A law-enforcement officer as defined in § 9200(b) of Title 11; or

b. An employee or contractor providing educational services within a Department of Correction or Division of Youth Rehabilitative Services facility.
(5) "Seclusion" means the involuntary confinement of a student alone in a room, enclosure, or space that is either locked or, while unlocked, physically disallows egress. The use of a "timeout" procedure during which a staff member remains accessible to the student shall not be considered "seclusion."

(6) "Timeout" means a behavior management technique in which, to provide a student with the opportunity to reflect or regain self-control, a student is separated from others for a limited period in a setting that is not locked and the exit is not physically blocked by furniture, closed door held shut from outside, or other inanimate object.

(b) Prohibition and restriction on use.

(1) Public school personnel are prohibited from imposing on any student the following:
   a. Chemical restraint; and
   b. Subject to waiver authorized pursuant to paragraph (c)(4) of this section, mechanical restraint and seclusion.

(2) Public school personnel may impose physical restraint only in conformity with all of the following standards:
   a. The student's behavior presents a significant and imminent risk of bodily harm to self or others;
   b. The physical restraint does not interfere with the student's ability to communicate in the student's primary language or mode of communication;
   c. The physical restraint does not interfere with the student's ability to breathe or place weight or pressure on the student's head, throat, or neck;
   d. The physical restraint does not recklessly exacerbate a medical or physical condition of the student;
   e. Less restrictive interventions have been ineffective in stopping the imminent risk of bodily harm to the student or others, except in case of a rare and clearly unavoidable emergency circumstance posing imminent risk of bodily harm, including, without limitation, intervening in a student initiated physical assault or altercation;
   f. For a student with a disability as defined in Chapter 31 of this title or 34 C.F.R. Part 104, the physical restraint does not contravene provisions in an individualized education program (IEP), behavior intervention plan, accommodation plan, or any other planning document for the individual student;
   g. Personnel use only the amount of force necessary to protect the student or others from the threatened harm;
   h. The physical restraint ends when a medical condition occurs putting the student at risk of harm or the student's behavior no longer presents an imminent risk of bodily harm to the student or others;
   i. The physical restraint is within the scope of force authorized by § 468 of Title 11; and
   j. The physical restraint conforms to applicable regulations promulgated by the Department of Education.

(c) Department of Education role; regulations.

(1) The Department of Education shall promulgate regulations implementing this section. Such regulations shall include, but not be limited to, the following:
   a. Requirement of uniform public school data collection on each use of physical restraint, by school, which includes demographic information on affected students such as age, gender, race, ethnicity, and disability category, if any;
   b. Requirement of timely parental notice in event of use of physical restraint;
c. Special procedures and safeguards applicable to use of physical restraint for students with disabilities as defined in Chapter 31 of this title or 34 C.F.R. Part 104; and

d. Recommended or required training of public school personnel in implementing this section.

(2) To facilitate data collection and analysis, the Department of Education may adopt a uniform reporting document and may require reporting of data in a standardized electronic or nonelectronic format.

(3) The Department of Education shall issue an annual report on use of physical restraint which includes rates of usage by school and by subcategories identified in paragraph (c)(1)a. of this section, identifies trends, and analyzes significant results.

(4) Unless proscribed by federal law, the Secretary of Education may issue a waiver of the prohibition on mechanical restraint and seclusion for an individual student based on compelling justification and subject to specific conditions and safeguards which must include a requirement of continuous visual staff monitoring and parental notice of each use of mechanical restraint or seclusion.

(d) Effect on other laws. The limitations and prohibitions described in this section are in addition to, and not in derogation of, any other constitutional, statutory, or regulatory rights otherwise conferred by federal or state law or regulation.

REGULATIONS


1.0. Purpose and Authority

1.1. The purpose of these regulations is to establish standards and procedures for the use of physical restraint, chemical restraint, mechanical restraint, and seclusion to provide safety for all individuals. The regulations set forth permitted and prohibited uses of restraint and seclusion, required training for public school, private program, or alternative program personnel, required documentation and reporting of incidents of restraint and seclusion, required notification to parents, and waiver procedures for individual students.

1.2. These regulations are promulgated in accordance with 14 Del.C. §4112F.

2.0. Definitions

The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

“Alternative program” means a program established pursuant to 14 Del.C. Ch. 16.

“Chemical restraint” means a drug or medication used on a student to control behavior or restrict freedom of movement that is either not medically prescribed for the standard treatment of a student’s medical or psychiatric condition or not administered as prescribed. (Authority: 14 Del.C. §4112F(a)(1)).

“Mechanical restraint” means the application of any device or object that restricts a student’s freedom of movement or normal access to a portion of the body that the student cannot easily remove.

“Mechanical restraint” does not include devices or objects used by trained school personnel, or used by a student, for the specific and approved therapeutic or safety purposes for which they were designed and, if applicable, prescribed, including the following:

- Restraints for medical immobilization;
- Adaptive devices or mechanical supports used to allow greater freedom of movement stability than would be possible without use of such devices or mechanical supports;
- Vehicle safety restraints when used as intended during the transport of a student in a moving vehicle;
- Instruction and use of restraints as part of a criminal justice or other course; or
Notwithstanding their design for other purposes, adaptive use of benign devices or objects, including mittens and caps, to deter self-injury.

"Parent" means:
A biological or adoptive parent of a child;
A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State);
An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives and for whom a Relative Caregiver’s School Authorization executed in compliance with 14 Del.C. §202(f)(1) is on file;
An individual who is otherwise legally responsible for the child's welfare; or
A surrogate parent who has been appointed in accordance with 14 DE Admin. Code 926,19.0 or Section 639(a)(5) of the Act.

"Physical restraint" means a restriction imposed by a person that immobilizes or reduces the ability of a student to freely move arms, legs, body, or head. "Physical restraint" does not include physical contact that:
Helps a student respond or complete a task;
Is needed to administer an authorized health-related service or procedure; or
Is needed to physically escort a student when the student does not resist or the student’s resistance is minimal.

"Principal" means the building principal, or the equivalent of the building principal, of any public school or charter school, or the building principal’s designee.

"Private program" means a non-public school or program contracted by a school district or charter school.

"Public school personnel" means an employee or contractor of a public school district or charter school.
"Public school personnel" does not include the following:
A law enforcement officer as defined in § 9200(b) of Title 11; unless the law enforcement officer meets the definition of a School Resource Officer/SRO; or
An employee or contractor providing educational services within a Department of Correction or Division of Youth Rehabilitative Services facility. (Authority: 14 Del.C. §4112F(a)(4))

"School Resource Officer (SRO)" means a contractor, subcontractor or employee of a public school district or charter school who is a sworn law enforcement officer as defined in 11 Del.C. §9200.

"Seclusion" means the involuntary confinement of a student alone in a room, enclosure, or space that is either locked or, while unlocked, physically disallows egress. The use of a “timeout” procedure during which a staff member remains accessible to the student shall not be considered “seclusion.” (Authority: 14 Del.C. §4112F(a)(5))

"Student" means any individual enrolled in a Delaware public school or charter school, an alternative program pursuant to 14 Del.C. Ch. 16, or a private program pursuant to Title 14 Del.C. Chapter 31, Section 3124.

"Timeout" means a behavior management technique in which, to provide a student with the opportunity to reflect or regain self-control, a student is separated from others for a limited period in a setting that is not locked and the exit is not physically blocked by furniture, closed door held shut from outside, or other inanimate object. (Authority: 14 Del.C. §4112F(a)(6))

"Written report" means printed paper filings and electronic filings that can be printed.

3.0 Use of Restraints
3.1. Public school personnel, private program personnel, and alternative program personnel are prohibited from imposing on any student:

3.1.1. Chemical restraint; and

3.1.2. Subject to waiver authorized by 14 Del.C. §4112F(c)(4) and Section 8.0, mechanical restraint and seclusion.

3.2. Such personnel may impose physical restraint only in conformity with all of the following standards:

3.2.1. The student’s behavior presents a significant and imminent risk of bodily harm to self or others;

3.2.2. The physical restraint does not interfere with the student’s ability to communicate in the student’s primary language or mode of communication;

3.2.3. The physical restraint does not interfere with the student’s ability to breathe or place weight or pressure on the student’s head, throat, or neck;

3.2.4. The physical restraint does not recklessly exacerbate a medical or physical condition of the student;

3.2.5. Less restrictive interventions have been ineffective in stopping the imminent risk of bodily harm to the student or others, except in case of a rare and clearly unavoidable emergency circumstance posing imminent risk of bodily harm, including, without limitation, intervening in a student initiated physical assault or altercation;

3.2.6. For a student with a disability as defined in Chapter 31 of Title 14 or 34 C.F.R. Part 104, the physical restraint does not contravene provisions in an individualized education program (IEP), behavior intervention plan, accommodation plan, or any other planning document for the individual student;

3.2.7. Personnel use only the amount of force necessary to protect the student or others from the threatened harm;

3.2.8. The physical restraint ends when a medical condition occurs putting the student at risk of harm or the student’s behavior no longer presents an imminent risk of bodily harm to the student or others;

3.2.9. The physical restraint is within the scope of force authorized by §468 of Title 11.

4.0. Training of Personnel

4.1. Except as provided in 14 Del.C. §702(c), a student may be physically restrained only by public school personnel, private program personnel, or alternative program personnel who have completed training in physical restraint procedures.

4.1.1. Such personnel shall receive annual training in the use of crisis prevention and intervention techniques consistent with nationally recognized training programs, which shall meet the following minimum requirements:

4.1.1.1. The training shall address prevention techniques, de-escalation techniques, and positive behavioral intervention strategies and supports;

4.1.1.2. The training shall be designed to meet the needs of such personnel consistent with their duties and the potential need for emergency safety interventions; and

4.1.2. Each public school, private program, and alternative program shall maintain written or electronic documentation of each training provided, which shall include a list of all personnel who participated in the training.

4.2. Any public school personnel responsible for reporting the physical restraint of a student to the Department shall complete training on the reporting process approved by the Department and any additional training that the Department may prescribe from time to time.
4.2.1. The approved training shall be provided using a web-based platform through the Department’s Professional Development Management System (PDMS) or similar system. The training will be provided on an annual basis and made available throughout each school year.

4.2.2. Such personnel responsible for reporting the physical restraint of a student shall complete the approved training at least once every three (3) years and during any year in which reporting procedures were changed from the previous year as indicated by the Department.

5.0. Parental Notification of Use of Physical Restraint

5.1. Except as provided in Section 5.1.1, if a student is physically restrained, a reasonable attempt shall be made to notify the parent on the same day, but in no event later than twenty-four hours after, the physical restraint is used. Such notification shall be made in person, by phone or by voicemail, or by e-mail. The school shall maintain written documentation of successful and unsuccessful attempts to notify the parent.

5.1.1. Where physical restraint is included in the student’s IEP or Section 504 Plan, the IEP Team or Section 504 Team, including the parent, shall determine a timeframe and manner of notification of each incident of physical restraint.

5.2. The parent shall be provided a copy of a final written report no later than the date on which such report is filed with the Department. The written report shall contain, at a minimum, the information required under Section 6.0.

6.0. Uniform Data Collection

6.1. When an incident of physical restraint of a student by school personnel occurs:

6.1.1. As soon as practicable thereafter, a reasonable attempt shall be made to interview the student regarding the incident; and

6.1.2. The school principal must provide a written report, in a uniform format as determined by the Department, of the restraint to the Department within seventy-two (72) hours of the restraint, or within seventy-two (72) hours of the time in which the student’s district or charter school of residence receives notice of the restraint from the contracted private program or alternative program, whichever the case may be; and

6.1.3. The written report shall include, at a minimum:

6.1.3.1. Details of the restraint incident, including, but not limited to, the student behavior and description of events leading to the use of physical restraint; de-escalation techniques utilized by school personnel prior to the restraint; a description of the student’s behavior during the restraint; a summary of witness interviews, if applicable; any injury caused to the student, staff member(s), or other student(s); and any related treatment deemed necessary as a result of the restraint.

6.1.3.2. Demographic information on affected students to include age, race, ethnicity, and disability category;

6.1.3.3. A description of the interview conducted with the student, if applicable; and

6.1.3.4. If applicable, a description of changes to any or all of the following that resulted from the restraint incident:

6.1.3.4.1. For a student with a disability as defined in Chapter 31 of Title 14 or 34 C.F.R. Part 104, the student’s IEP, behavioral support, crisis intervention plan, accommodation plan, or any other planning document for the individual student;

6.1.3.4.2. School/LEA policy or procedure; or

6.1.3.4.3. Additional staff training.

7.0. Annual Reporting Requirement
The Department shall issue an annual report on the use of physical restraint, which shall include rates of usage by school and by subcategories identified pursuant to Section 6.0, identify trends, and analyze significant results. The report shall be posted on the Department’s website.

8.0. Waiver

8.1. Any public school, private program, or alternative program applicant for a waiver of the prohibition on the use of mechanical restraints or seclusion for an individual student must deliver the request in writing, in a uniform format developed by the Department, to the Secretary or Secretary’s designee setting forth the grounds for the request.

8.1.1. The request shall be based on compelling justification supported by documentation, including, but not limited to, educational records, reporting of incidents, and the student’s functional behavioral assessment and behavioral intervention plan, including implementation data, and medical documentation, if applicable.

8.1.2. The request shall contain a description of the conditions and safeguards that the applicant will utilize in connection with the waiver, including, but not limited to:

8.1.2.1. A detailed description of the proposed continual visual staff monitoring of student;
8.1.2.2. A requirement that the parent be notified of each use of mechanical restraint or seclusion which conforms to the procedure set forth in Section 5.0 for reporting physical restraint except that the provisions of 5.1.1 shall not apply herein; and
8.1.2.3. A detailed description of the physical space within which the seclusion(s) will occur, or of the type of mechanical restraint(s) to be utilized, whichever is applicable.

8.1.3. The request shall include a written authorization signed by the parent agreeing to the issuance of a waiver on the prohibition of the use of mechanical restraints or seclusion for that student and a signed written consent for release of information to the Department and the waiver review committee.

8.1.4. All privileged documentation shall be maintained confidentially by the Department and the waiver review committee to the extent permitted by law.

8.2. All requests shall be considered by a waiver review committee appointed by the Secretary. A decision by the waiver review committee shall be rendered no later than (60) sixty calendar days of receipt of the waiver request.

8.3. The committee shall make a written recommendation to the Secretary, which shall include:

8.3.1. A summary of the compelling justification based on the documentation submitted in support of the waiver requested;
8.3.2. Recommendations to include any specific conditions and safeguards, and a brief statement of the reasons therefore;
8.3.3. A requirement that, where a waiver is issued, there be continual visual monitoring, parental notice of each use of mechanical restraint or seclusion, and collection of data to include the number of times the student was subject to mechanical restraint or seclusion, the duration of each mechanical restraint or seclusion, and any other data as required by the Department;
8.3.4. A statement as to the duration of the waiver, not to exceed a period of one calendar year.

8.4. The Secretary shall consider the entire record of the case and the committee’s recommendations in reaching a final decision. The Secretary’s decision shall be issued in writing and mailed to the applicant and the parent by certified mail no later than ten (10) calendar days from receipt of the recommendation of the waiver review committee.

8.5. The Secretary’s decision shall be final.

9.0. School Resource Officer (SRO) Training
9.1. An SRO shall annually receive the following awareness level training from the school district or charter school in which they are assigned:

9.1.1. Training which is consistent with that which is required of other public school personnel within their school district or charter school for disability awareness and behaviors that may manifest as a result of disabilities;

9.1.2. Best practices for de-escalation techniques utilized in the school setting;

9.1.3. Current information on the intervention decisions and techniques used by school personnel within the school setting;

9.1.4. Such other training as is necessary to protect the health and well-being of students with disabilities, including students with Individualized Education Programs (IEP) who enroll after the beginning of the school year, which shall include basic awareness training specific to IEPs, functional behavior assessments and Behavior Support Plans;

9.1.5. An SRO shall participate in the annual SRO training provided by the Delaware State Police or equivalent training provided by the police agency employing the SRO.

9.2. The training outline in this regulation shall include reference to how it relates to the duties and responsibilities of an SRO as outlined in the Memorandum of Agreement between the school district or charter school and the police agency employing the SRO as required under Regulation 601.

9.3. Prior to the start of each school year, or as soon as practical, but no later than 30 calendar days after the first student day of school, a representative of each school building shall meet with the SRO assigned to that school in order to be familiarized with behaviors related to disabilities that may occur in the school and typical responsive actions that may be taken by school personnel in that school.

9.4. Nothing within this regulation or contained within 14 Del.C. §4112F shall be interpreted as creating any additional restrictions on the sworn authority of law enforcement officers or their ability to carry out their required sworn duty.

**Alternative placements**

**LAWS**


For the purposes of this chapter, the following terms shall have the following meanings:

(2) "Good cause" means a change in a child's residence due to a change in family residence, a change in the state in which the family residence is located, a change in a child's parent's marital status, a change caused by a guardianship proceeding, placement of a child in foster care, adoption, participation by a child in a foreign exchange program, a reported, recorded, and substantiated instance of "bullying" against their child as defined in § 4161 of this title, or participation by a child in a substance abuse or mental health treatment program, or a set of circumstances consistent with this definition of "good cause."


(a)(1) A pupil accepted for enrollment in a school or program pursuant to this chapter shall be entitled to remain enrolled therein until graduation from the school or completion of the program provided that the pupil continues to meet the requirements for such school or program, provided however, that upon the concurrence of the boards of both the district of residence and the receiving district, a pupil's right to remain enrolled may be terminated prior to graduation from or completion of the program where such termination is based upon the pupil's
a. Failure to continue to comply with the receiving district's requirements for attending school or class, or

b. Multiple violations of, or one or more serious violations of, the receiving district's student code of conduct.

(2) A pupil accepted for enrollment in a school or program pursuant to this chapter shall remain enrolled therein for a minimum of 2 years unless, during that 2-year period,

a. A pupil graduates from the school or completes the program;

b. The pupil's parent or parents cease to be residents of the pupil's original district of residence;

c. At the conclusion of any academic year during such 2-year period, the pupil ceases to meet the academic requirements for such school or program;

d. If daycare was indicated on the relevant choice application as a reason for seeking enrollment, or if daycare was a reason for granting priority to consideration of or granting of the relevant choice application, or the provider of daycare services to the pupil ceases doing business or relocates to a location so distant from the original location as to render the original combination of daycare and choice enrollment no longer reasonably practicable for the pupil or the parent or parents of such pupil; or

e. The board of the district of residence, the board of the receiving district, and the parent or parents of the pupil agree for any reason to terminate such enrollment;

f. The provisions of paragraphs (a)(2)a. through (a)(2)e. of this section shall apply unless the receiving district, at its sole discretion, agrees to maintain a child in a choice placement. Due to the unique educational and developmental needs of primary age children, on a case by case basis, districts may grant exceptions to allow students in grades kindergarten through grade 3 to remain in school choice even if they fail to meet required educational standards;

g. The pupil's parents or guardians wish to terminate the agreement due to a reported, recorded, and substantiated instance of "bullying" against their child as defined in § 4161 of this title

(b) Notwithstanding the provisions of subsection (a) of this section, a parent may apply to terminate that parent's own child's enrollment in the receiving district prior to the expiration of the minimum period established in subsection (a) of this section by submitting a written application, on a form provided by the Department of Education, to the child's then-existing district of enrollment no later than December 1 for enrollment during the following school year.

c) If a parent of a child fails to file an application by the deadline of December 1 and good cause exists for the failure to meet the deadline, the child's then-existing district of enrollment shall accept and consider the application in the same manner as if the deadline had been met.

d) The parent of a child may withdraw the application at any time prior to action on the application by the board of the child's then-existing district of enrollment.

e) Within 10 working days of receiving an application to withdraw, the child's then-existing district of enrollment shall transmit a notice to the district of residence that it has received the application.

(f) The board of the child's then-existing district of enrollment shall take action to approve or disapprove the application no later than December 15 of the school year preceding enrollment.

(g) The board of the receiving district shall transmit a notice of the board's action to the parent of the child and to the board of the district of residence within 5 working days after board action.

(h) The action of a board in a child's then-existing district of enrollment to accept an application to terminate enrollment pursuant to this section shall be final; however, nothing in this subsection shall prohibit a board in its sole discretion from conditioning its approval of termination pursuant to this section
upon acceptance of the child into another district or program pursuant to an application submitted in accordance with chapter.

(i) Unless accepted for enrollment in a school or program in another district pursuant to this chapter, a child whose enrollment in a receiving district concludes or terminates pursuant to this section shall automatically be re-enrolled in the child's district of residence for the ensuing school year. Any such student shall be enrolled by the district of residence according to the feeder pattern in which the child's parent resides unless, pursuant to the provisions of § 405(b) of this title, all available space has been filled by returning students, in which case the student shall apply and be considered for enrollment in any other school in the district of residence in which there is space available in accordance with the provisions of this chapter.

14 Del.C. § 411 Pupils suspended, expelled, or truant in district of residence.

If a child for whom an application has been submitted pursuant to this chapter has been suspended or expelled, or has been absent from school without a valid excuse for more than 15 school days during a school year, in the district of residence, the board of the receiving district may, in its sole discretion, refuse to consider the application or refuse to approve the application, or refuse to enroll the child in the receiving district until the child has been reinstated in the district of residence, provided, however that nothing in this section shall be construed to enlarge upon the authority of any district to accept for re-enrollment any student who has been expelled from a school district in this State, as such authority is limited by the provisions of § 4130 of this title. "Valid excuse" shall have the same meaning as in § 2721 of this title.


Consistent with its charter and the provisions of its certificate of incorporation, bylaws or membership agreements, the board of directors of a charter school or schools shall, as to each charter that the board holds, have the power to:

(8) Establish reasonable academic and disciplinary standards specifically related to the missions, goals and educational objectives for the charter school as set forth in its charter for students to continue enrollment in the charter school; provided, however, that an expulsion from a charter school shall have the same effect for the purposes of § 4130 of this title as expulsion from a school district. Charter schools may refer students to the alternative programs operated pursuant to the provision of Chapter 16 of this title subject to the following conditions:

a. A student may only be referred to a program which serves that student's district of residence and only if there is space available in such program to serve the student;

b. The student otherwise meets eligibility criteria for students who may be enrolled in such program; and

c. The student's district of residence and the charter school in which the student is enrolled agree to a proration of student funding between or among the charter school and the school district in which the student resides, in which case the district of residence shall become liable for any cost associated with the placement of the student in the alternative program;


(d) A pupil accepted for enrollment in a charter school pursuant to this chapter shall remain enrolled therein for a minimum of 1 year unless, during that 1-year period, good cause exists for the failure to meet this requirement. For purposes of this section only, "good cause" shall be defined as a change in a child's residence due to a change in family residence, a change in the state in which the family residence is located, a change in the marital status of the child's parents, a change caused by a guardianship proceeding, placement of a child in foster care, adoption, participation by a child in a foreign exchange
program, participation by a child in a substance abuse or mental health treatment program, a reported,
recorded and substantiated instance of "bullying" against their child as defined in § 4161 of this title,
mutual agreement by the board of directors of the charter school, the board of the receiving district and
the parent or parents or guardian of such child to the termination of such enrollment, or a set of
circumstances consistent with this definition of "good cause."

The Department of Education shall establish a program component which will provide alternative
educational and related services for the more severe discipline problems in the public schools. This
component will serve primarily secondary school students, including but not limited to: youngsters who
have been expelled from regular schools, students who may be subject to expulsion, and others who
have serious violations of the local school district discipline code. The Department of Education shall
provide rules and regulations for the conduct of programs authorized under this section subject to the
following limitations:

(1) School districts shall make application to the Department of Education for funding to implement
programs authorized under this section. Preference shall be given to applications from consortia of
school districts. To the extent feasible, programs offered under this component should serve eligible
pupils within a county, however, multiple sites may be operated by a single consortia of school districts
within a county.

(2) Any application submitted under this section shall specify the types and level of services to be
provided and an estimate of the number of youngsters to be served. The application shall also include a
budget of proposed expenditures during a fiscal year. That budget shall indicate, at a minimum, the
funds being requested from appropriations authorized under this section and funds to be obtained from
all other sources.

(3) All applications submitted to the Department of Education under this section shall indicate an
agreement to fund at least 30 percent of the total cost of services provided from sources of funding
other than those authorized under this section.

(4) All projects funded under this section shall submit an annual evaluation report on the effectiveness
of the program to the Department of Education. Such report shall incorporate the data and information
specified by the Department.

(5) School districts shall be permitted to use funds collected in accordance with the provisions of
Chapter 6 of this title to make tuition payments for youngsters assigned to programs authorized under
this section.

(6) Nothing in this section shall prohibit a consortia of school districts from contracting for educational or
related services with public or private agencies when operating programs authorized under this section.

(7) The provisions of § 4130 of this title shall not apply to youngsters enrolled in programs authorized
under this section.

(8) A student 16 years of age or less who is expelled or suspended pending expulsion by a local school
district or charter school shall be presumed appropriate for placement in a Consortium Discipline
Alternative Program site, provided the student is not otherwise ineligible by statute or regulation for
placement in such a program. The burden of establishing that a student is not appropriate for placement
in a Consortium Discipline Alternative Program shall be on the local school district or charter school.
Any student not shown by preponderance of evidence to be inappropriate for placement in a
Consortium Discipline Alternative Program shall be placed in such a program.
REGULATIONS


1.0. Purpose

The Elementary and Secondary Education Act (ESEA) of 1965, as amended by the Every Student Succeeds Act (ESSA) of 2015, requires that a State Education Agency establish a State Unsafe School Choice Option policy in order to receive funding under ESEA.

2.0. Definitions

In this regulation, the following terms shall have the meanings indicated below:

"Crime" shall have the same meaning as provided in 14 Del.C. §4112.

"Enrolled Students" unless the context indicates otherwise, means all students included in the Delaware Student Information System (DELSIS) report for the year of the data collection.

"Expulsion" means, for purposes of this regulation, the exclusion from the regular school setting for a period determined by the local district board or charter school board not to exceed one year. The process for readmission shall be determined by the local district board or charter school board.

"Firearm" means handgun, rifle, shotgun, or other type of firearm as that term is defined in the federal Gun Free Schools Zone Act at 18 U.S.C.A. §921

"Fiscal Year" means the period of July 1 through June 30.

"Gun Free Schools Violation" means the prohibited bringing to school, or possession while in school of a firearm by a student.

"Persistently Dangerous School" means a school that has five or more unsafe incidents for every one hundred students enrolled for three consecutive fiscal years.

"Safe School" means a school in the same school district that is not currently identified by the Department of Education as a persistently dangerous school.

"School" means any public school including charter schools. School property shall have the same meaning as provided in 14 Del.C. §4112 (a)(9).

"Suspension" means, for the purpose of this regulation, the external (out of school) removal of a student from the general school population.

"Unsafe Incidents" means any of the following:

The school suspended or expelled a student for a gun free schools’ violation; or

The school suspended or expelled a student for a crime committed on school property which is required to be reported under 14 Del.C. §4112; or

The school reported a crime committed by a non-student on school property that is required to be reported under 14 Del.C. §4112.

"Violent Felony" shall have the same meaning as provided in 11 Del.C. §4201(c).

3.0. Identification of Persistently Dangerous Schools

3.1. The Department of Education shall identify each Persistently Dangerous School using the data reported to it pursuant to the provisions of 14 Del.C. §4112, 14 DE Admin. Code 601, and any expulsion and suspension data as required by the Department.

3.2. Notwithstanding any provision herein to the contrary, any year that a School fails to comply with the reporting mandates, as set forth in 3.1 above, to the Delaware Department of Education or to the appropriate police agency as set forth above, the Department of Education will consider the School as if it otherwise met the criteria to be classified as a Persistently Dangerous School for that year until such
time as it may be determined, in the sole discretion of the Department, that the School has met such reporting requirements.

3.3 A School identified as a Persistently Dangerous School will retain that designation for the entire fiscal year.

4.0 Students Attending Schools Labeled as Persistently Dangerous

4.1 A student attending a Persistently Dangerous School shall be allowed to choice to a Safe School in the same school district, including a charter school provided that a charter school option exists in that school district’s boundaries.

4.2 Each public school district having one or more Persistently Dangerous Schools and any charter school identified as a Persistently Dangerous School shall develop a plan and timeline that describes the process for notifying parents of the School’s status and for relocating any student who exercises the right to choice to a Safe School. The plan shall also describe the corrective actions that will be implemented. The plan shall be forwarded to the Department of Education no later than September 15th of the year that the School is identified.

5.0 Students Who are Victims of a Violent Felony

5.1 A student who is the victim of a Violent Felony while in or on the grounds of a School in which the student is enrolled shall be allowed to choice to a Safe School in the same school district, including a charter school provided that a charter school option exists in that school district’s boundaries.

5.2 All school districts and charter schools shall establish a plan that describes their policies and procedures for providing school choice options to a student who is the victim of a Violent Felony, including the process for notifying parents.

5.3 Each school district and charter school shall post the policy and procedures on the school district’s or charter school’s website, with hard copies provided to any requesting parties.


1.0 Eligible Students

1.1 Except as otherwise provided in this regulation, any student who is expelled by a local school district, who is subject to expulsion or who otherwise seriously violates the district discipline code shall be eligible for placement at a Consortium Discipline Alternative Program (CDAP) site.

1.2 Subject to Section 11.0, local school districts shall place an eligible student at a Consortium Discipline Alternative Program site if the district board:

1.2.1 Has expelled the student for a violation of the district's discipline code or, determined that the student has been suspended for engaging in conduct that could result in expulsion and has not required the student to participate in other options such as behavioral contracts or counseling or, determined that the student has exhibited such severe discipline problems that expulsion is imminent.

1.3 School districts may place a student in a Consortium Discipline Alternative Program for classroom or school environment disruptions only if:

1.3.1 Such disruptions are chronic and repetitive; and

1.3.2 The student has participated in all available School Based Intervention Programs pursuant to 14 DE Admin. Code 609 and continues to routinely and seriously disrupt the classroom and impede the learning of other students.

2.0 Ineligible Students

2.1 Any student expelled or suspended pending expulsion for behavior equivalent to a violation of the following is not eligible for, and may not be placed at a Consortium Discipline Alternative Program site.
2.1.1 11 Del.C. §613 Assault in the First Degree; class C felony; or
2.1.2 11 Del.C. §1457 Possession of a Weapon in a Safe School and Recreation Zone; class D, E, or F: class A or B misdemeanor; or
2.1.3 11 Del.C. §802 Arson in the Second Degree affirmative defense; class D felony; or
2.1.4 11 Del.C. §803 Arson in the first degree; class C felony; or
2.1.5 11 Del.C. §770 Rape in the fourth degree; class C felony; or
2.1.6 11 Del.C. §771 Rape in the third degree; class B felony; or
2.1.7 11 Del.C. §772 Rape in the second degree class B felony; or
2.1.8 11 Del.C. §773 Rape in the first degree class A felony; or
2.1.9 16 Del.C. §4752 Drug dealing - Aggravated possession; class B felony; or
2.1.10 16 Del.C. §4752B Drug dealing - Resulting in death; class B felony; or
2.1.11 16 Del.C. §4753 Drug dealing - Aggravated possession; class C felony; or
2.1.12 16 Del.C. §4754 Drug dealing - Aggravated possession; class D felony; or
2.1.13 Any behavior equivalent to or greater than the offenses in subsections 2.1.1 through 2.1.12.

2.2 Provided further, any student expelled or suspended pending expulsion may not be placed at a Consortium Discipline Alternative Program if the school district determines, by a preponderance of the evidence, the student is inappropriate for such placement. When determining whether a student is inappropriate for placement in a Consortium Discipline Alternative Program, the school district shall consider the availability of space in the program to serve the student, the student's age and the student's educational and behavioral modification needs.

3.0 Written Decision Required

When a school board expels a student but determines the student shall not be placed at a Consortium Discipline Alternative Program, the school district's decision shall be in writing and address with specificity the reasons for non-placement and the evidence in support thereof. Such decisions shall be submitted to the Delaware Department of Education's Office of School Climate within five working days of such decision with a copy to the student's parent, guardian, or Relative Caregiver.

4.0 Informing the Parents, Guardians, Relative Caregiver or Students (If the Student is Age 18 or Older)

Districts shall inform the parents, guardians, Relative Caregiver or students (if the student is age 18 or older) of the alternative education options that are then currently available to them if the students have been expelled or expulsion is being considered. These options may include, but are not be limited to, the Consortium Discipline Alternative Program, a GED Program, James H. Groves High School and continued special education and related services for children with disabilities as determined by the student's eligibility for participation in such programs. A student's eligibility for such alternative education options is determined by the requirements of such programs.

5.0 Grade Levels to be Served

Eligible students in the Consortium Discipline Alternative Program shall be primarily those who are enrolled in grades 6 through 12, however students in the lower grades may also be served through CDAP funds.

6.0 Placement at Consortium Discipline Alternative Program Sites

6.1 Each district shall establish an Alternative Placement Team to review each case and prescribe the appropriate placement for students. The Placement Team, in concert with the Consortium Discipline Alternative Program staff, shall design an Individual Service Plan (ISP) for each student that will include educational goals, behavioral goals, and services needed by both students and their families. The ISP shall include a tentative transition plan.
6.1.1 The Alternative Placement Team shall be composed of a representative of the Consortium Discipline Alternative Program staff; a district-level coordinator who will be designated by the superintendent; the building level principal, assistant principal or other person as appropriate; the student's custodial adult; guidance counselor or school social worker; and a representative from the Department of Services for Children Youth and Their Families (DSCYF) with knowledge of the student's and family's needs as appropriate. Other individuals may be invited as determined by the placement team.

6.1.1.1 Students who are being placed at a Consortium Discipline Alternative Program site as a transition from DSCYF facilities shall have an ISP developed in concert with the DSCYF facility team, the Alternative Placement Team, and the student's custodial adult.

6.1.2 If students from either a school district or DSCYF facility are children with disabilities, appropriate special education staff shall be included in placement considerations. The Alternative Placement Team and the Individual Education Program (IEP) Team may be the same so long as the membership of the IEP Team meets the requirements of 14 DE Admin. Code 925.

7.0 September 30 Enrollment Count

7.1 Students enrolled at a Consortium Discipline Alternative Program site shall be counted in the enrollment of the sending school.

7.2 Students shall be reported for the level of special education service as defined by the current IEP.

7.3 If a student was enrolled the previous year in a Career and Technical Program in the reporting school, the students shall be reported as enrolled in the next Career and Technical course in the program series.

8.0 Consortium Discipline Alternative Program Setting

8.1 The Consortium Discipline Alternative Program setting shall be apart from the regular school setting, however, a part of a school building may be used for these programs if the students do not interact with the regular school population or use any school facility at the same time as the regular school population.

8.1.1 Use of other agency facilities (Boys and Girls Club, YMCA, YWCA, etc.) is encouraged. Consortium Discipline Alternative Program settings shall meet all applicable health and safety laws and regulations for student occupancy.

9.0 Consortium Discipline Alternative Program Design

9.1 The Consortium Discipline Alternative Program shall include an educational program designed to maintain and improve skills aligned to the Delaware State Content Standards that will allow students to reenter the regular school program with a reasonable chance and expectation for success. Opportunities for academic acceleration shall also be provided.

9.1.1 The academic program shall include applied learning activities that encourage students’ active participation in the learning process as opposed to work sheets and other "seat oriented" drill exercises. Study skills, test-taking strategies for academic confidence building, and Character Education shall be integrated with the Delaware State Content Standards.

9.1.1.1 Credit for work accomplished in the Consortium Discipline Alternative Program setting shall be automatically transferred to the sending school.

9.1.2 All students enrolled in Consortium Discipline Alternative Programs shall participate in the Delaware Student Testing Program (DSTP) or successor statewide student assessment program, and Student Success Plans (SSP) as required by 14 DE Admin. Code 507.

10.0 Staffing
Instructional staff shall include educators who are licensed and certified in the content areas of English language arts, mathematics, science and social studies.

11.0 Children With Disabilities

11.1 Nothing in this regulation shall alter a district's or charter school's duties under the Individual with Disabilities Act (IDEA) or 14 DE Admin. Code §922 through 929. Nor shall this regulation prevent a district or charter school from providing supportive instruction to children with disabilities in a manner consistent with the Individuals with Disabilities Education Act (IDEA) and Department regulations.

11.2 Nothing in this regulation shall alter a district's or charter school's duties under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act to students who are qualified individuals with disabilities. Nothing in this regulation shall prevent a district or charter school from providing supportive instruction to such students.

12.0 Charter School Students

12.1 A charter school, subject to the limitations of 14 Del.C. §504A(8), shall pursue referral of any student meeting the requirements of Subsection 1.2 into a Consortium Discipline Alternative Program pursuant to the provisions of Chapter 16 of Title 14 of the Delaware Code.

12.2 To the extent applicable, a charter school placing a student in a Consortium Discipline Alternative Program shall be subject to the provisions of this regulation.

13.0 Evaluation

The Department of Education shall annually evaluate the effectiveness of the Consortium Discipline Alternative Programs using criteria that includes student demographic data, types of interventions employed, and prior versus subsequent behavioral and academic patterns, parent involvement, agency involvement and recidivism. In addition, the Department of Education shall annually review the decisions acquired pursuant to Section 3.0 to assess the reasons for non-placement of students in the alternative programs, including lack of space and number, age, race and special education status of excluded students by district and charter school. Grantees shall compile and submit data based on uniform standards and format established by the Department.


1.0. Purpose

Pursuant to 14 Del.C. §122(b)(26), this regulation, which applies to all public school districts and charter schools, provides uniform procedures for the following situations: referral of students who warrant consideration for placement outside the Regular School Program into an Alternative Program; placement of students into an Alternative Program; monitoring student progress while in Alternative Placement; return of students back into the Regular School Program from an Alternative Program; Suspensions; and Expulsion hearings.

2.0. Terms and Definitions

In this regulation, the following terms and words shall have the following meaning unless the context clearly indicates otherwise:

"Administration" means administrative staff from a district, school, or charter school.

"Alternative Placement" means the removal of a student from his/her school on a temporary basis for a period of time as determined by the Alternative Placement Team and assignment to an Alternative Program.

"Alternative Placement Packet" means the documents submitted to the Alternative Placement Team including, but not limited to and as applicable, a student's academic information, behavioral information
including reason for referral to Alternative Placement, attendance information, Individualized Education Plan (IEP), 504 plan, and immunization records.

"Alternative Placement Team (APT)" means a committee composed of the following: a representative of the Alternative Program staff; a district level coordinator who will be designated by the superintendent; the building level principal, assistant principal or other person as appropriate; the student's Parent; guidance counselor or school social worker; and, if appropriate, a representative from the Department of Services for Children Youth and Their Families (DSCYF) with knowledge of the student's and family's needs. Other individuals may be invited as determined by the APT. The APT reviews and prescribes the appropriate placement for students being considered for Alternative Placement.

"Alternative Placement Team Meeting" means a meeting held by the district/charter school Alternative Placement Team to determine the appropriate educational setting for a student whose behavior is within the defined conduct under 14 DE Admin. Code 614 and who has been recommended for Assignment to an Alternative Program.

"Alternative Program" means a school discipline improvement program that provides Appropriate Educational Services that has been created for students whose behavior(s) is within the defined conduct under 14 DE Admin. Code 614. This includes any programs managed by a school district/charter or the Consortium Discipline Alternative Program.

"Appropriate Educational Services" means instruction and assessment provided by the district/charter and includes access to instructional materials, graded homework and communication with educators so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting a level of proficiency in that curriculum.

"Assignment to an Alternative Program" means student Assignment to an Alternative Program, including Consortium Discipline Alternative Program and any Alternative Program maintained by a district/charter school, until the student has fulfilled the requirements to return to the Regular School Program.

"Attorney General's Report (Juvenile Arrest Warrant and Complaint)" means the Department of Justice’s report of alleged out-of-school criminal conduct, regardless of jurisdiction, which shows disregard for the health, safety and welfare of others, including, but not limited to acts of violence, weapons offenses, and drug offenses.

"Board of Education" means the Board of Education of a reorganized school district or the Board of Directors of a charter school.

"Building Level Conference" means a meeting which is held by phone or in person between the Principal, other appropriate school staff members as determined by the Principal, a student and a student's Parent to discuss the student's misconduct relative to a recommendation for Suspension, Alternative Placement, or Expulsion.

"Consortium Discipline Alternative Program" means a school discipline improvement program which serves an organized consortium of school districts and/or charter schools as provided for in 14 Del.C. Ch. 16.

"Disciplinary Action" means the student identified for Short or Long-Term Suspension, Expulsion, or Alternative Placement who may be excluded from all school activities, including but not limited to, extracurricular sports/programs, field trips, and ceremonies; is not allowed on School Property unless placed in an Alternative Placement on School Property.

"Discipline Record" means all information about Disciplinary Action taken against a specific student as a result of any infraction of the school's/district's Student Code of Conduct or other rules.

"Expulsion" means Disciplinary Action approved by the Board of Education resulting in a student being removed from the Regular School Program for a duration not to exceed the total number of student
days in a school year. A student expelled without Appropriate Educational Services shall be unenrolled from the district/charter during the term of the expulsion. Regardless of whether without or with services, including Alternative Placement, the expelled student is not eligible to enroll in any other Delaware public school during the period of the Expulsion and until any reasonable terms of the Expulsion are fulfilled.

"Grievance" means a formal complaint, filed per specific district/charter procedures, to school Administration regarding a student's rights or liberty interests having been denied or impaired. At a minimum, the procedures shall be similar to the Grievance Guidelines applicable to this regulation, as posted on the Department of Education website.

"Hearing Officer" means an official appointed by the district/charter to conduct a formal due process hearing for a student recommended for Disciplinary Action which requires a formal due process hearing. The Hearing Officer may be an employee of the district or charter school, but shall not have been involved in any review of the student incident at the building or district level.

"In-School Alternative Program" means a School-Based Intervention Program (SBI) as described in 14 DE Admin. Code 609. Placement is determined by the school's Student Intervention Team as described in 14 DE Admin. Code 609. The program design includes the student's regular curriculum, as well as character education, social skills development, conflict resolution, access to counseling services and behavior modification strategies.

"Intake Form" means the checklist used during the student Intake Meeting which ensures the inclusion of behavioral, academic, and other necessary information to facilitate the placement of a student at a Consortium Discipline Alternative Program.

"Intake Meeting" means the meeting at an Alternative Program site which includes the student, the Parent, district/charter school representative, program administrator and other appropriate Alternative Program staff. At this meeting the program's rules and expectations are reviewed, paperwork that requires student and Parent signatures is completed, and the district's/charter school's individualized goals and expectations for the alternatively-placed student are reviewed.

"Outside Agency" means any agency from which a student has received services, but does not include an Alternative Program. Examples include, but are not limited to: judicial placement, youth detention facility, substance abuse facility, and mental health facility.

"Parent" means a biological or adoptive parent of a child; a guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State); an individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives and for whom a Relative Caregiver's School Authorization executed in compliance with 14 Del.C. §202(f)(1) is on file; an individual or entity who is otherwise legally responsible for the child's welfare; a surrogate parent who has been appointed in accordance with 14 DE Admin. Code 926.19; or a student who has reached the age of majority as defined in 1 Del.C. §701.

"Principal" means the building principal, or the equivalent of the building principal, of any district or charter school, or the principal's designee.

"Regular School Program" means student enrollment in a public school, not including specially assigned non-special education or student behavioral intervention programs within or outside the enrolled school, in which the student's classroom or course placement is based primarily on age, grade level and cognitive abilities as assigned by the school Administration or an IEP team and the student's participation in daily course instruction and activities within the assigned classroom or course.
"Repeated Violations of Student Code of Conduct" means five or more violations of the school’s Student Code of Conduct within a school year, excluding chronic infractions for tardiness or unexcused absences to school/class.

"School Discipline Committee" means a school-level committee consisting of appropriate school personnel, similar to those identified in 14 Del.C. Ch. 16, which meets to decide on student Disciplinary Action recommendations made by the Principal.

"School Environment" means within or on School Property, and at school sponsored or supervised activities, including, for example, on school grounds, on school buses, at functions held on school grounds, at school sponsored extracurricular activities held on and off school grounds, on field trips and at functions held at the school in the evening.

"School Property" means any building, structure, athletic field, sports stadium or real property that is owned, operated, leased or rented by any public school district or charter school including, but not limited to, any kindergarten, elementary, secondary, or vocational-technical school or charter school, or any motor vehicle owned, operated, leased, rented or subcontracted by any public school or charter school.

"Student Code of Conduct" means the district/charter school approved document which specifies the rights and responsibilities of students, defines conduct that disrupts/threatens a positive/safe School Environment, standardizes procedures for consequences and Disciplinary Action, and defines due process and Grievance procedures.

"Student Review" means a formal meeting that takes place at the Alternative Program with the district/charter school representative, the Alternative Program Administrator, and other appropriate Alternative Program staff to determine to what degree the student currently placed in the Alternative Program is progressing toward their behavioral and academic goals as determined during the student's Intake Meeting. The student and Parent shall be invited to attend this meeting.

"Superintendent" means the chief school officer of any public school district or charter school, or the equivalent of a superintendent, or the superintendent's designee.

"Suspension, Long-term (Long-term Suspension)" means Disciplinary Action approved by the Superintendent upon recommendation of the Principal or District Alternative Placement Team resulting in the student being removed from the Regular School Program for eleven (11) consecutive school days or more and not to exceed the total number of school days in a school year. Student chooses to waive his right to a formalized due process hearing as outlined in Section 10.0 of this regulation, maintains enrollment in the district/charter, and is provided Appropriate Educational Services during the term of the suspension, but is excluded from all school activities including, but not limited to, extracurricular sports/programs, field trips, and ceremonies. Student is not allowed on School Property when suspension is out-of-school. A Long-term Suspension requires initial due process procedures as outlined in Section 4.0 of this regulation and the student choosing to waive his right to a formalized due process hearing as outlined in Section 10.0 of this regulation.

"Suspension, Short-term (Short-term Suspension)" means Disciplinary Action approved by the Principal or School Discipline Committee resulting in the student being removed from his Regular School Program for at least one (1) school day and not more than ten (10) consecutive school days. Student maintains enrollment in district/charter, but is excluded from all school activities including, but not limited to extracurricular sports/programs, field trips, and ceremonies. Student is not allowed on School Property when Short-term Suspension is out-of-school. A Short-term Suspension requires initial due process procedures as outlined in subsection 5.1 of this regulation.

"Transition Meeting" means a meeting to discuss the student's return to the Regular School Program which takes place at the school in which the student is enrolled, with the Alternative Program.
representative, the district/charter school representative, the student, the Parent, a school administrator, a teacher, a school counselor, a student advisor or disciplinarian if assigned, or other representative. "Violent Felony" means a crime designated in 11 Del.C. §4201(c).

3.0. Preliminary Discipline Investigation & Reporting Requirements

3.1. Investigatory Procedures & Timeline

3.1.1. In any instance when student Disciplinary Action which may result in removal of the student out of the Regular School Program for one day or more is contemplated, the Principal shall conduct a preliminary investigation to determine if there is reasonable basis to pursue Disciplinary Action.

3.1.1.1. The Principal may remove the allegedly offending student from the general student population while conducting the preliminary investigation if the student's presence in the School Environment poses a threat to the health, safety, or welfare to persons or property within the School Environment, as determined by the Principal. Initial due process in accordance with subsection 4.2.1 of this regulation shall be provided.

3.1.1.2. When obtaining written statements from witnesses, reasonable efforts may be made to notify the Parent of each witness.

3.1.1.3. Reasonable efforts shall be made to include the allegedly offending student or Parent in the preliminary investigation.

3.1.2. The investigation shall be completed within three (3) school days of the date the incident in question was reported.

3.1.3. The Principal shall confiscate any contraband as defined in the Student's Code of Conduct or under the School's policy or state or federal law, which may be used for criminal/juvenile delinquency proceedings. Such contraband shall be labeled and secured in a locked area. Any confiscated contraband, or that reasonably understood to be illegal contraband, which may be used for criminal/juvenile proceedings shall be turned over to the appropriate police agency as soon as practicable.

3.2. Reporting Requirements

3.2.1. If the investigation reveals that there is reliable information that would lead a reasonable person to believe that a mandatorily reportable crime under 14 Del.C. §4112 has been committed, the Principal shall immediately notify the appropriate law enforcement agency of the incident.

3.2.1.1. All reports to the appropriate law enforcement agency must be made immediately by telephone or in person and shall be followed by a written report of the investigation within three (3) business days.

3.2.2. The Principal shall report all offenses listed as a mandatory report to the Department of Education under 14 Del.C. §4112 and 14 DE Admin. Code 601 within five (5) business days of the incident by completing the information in the eSchoolPlus discipline center or successor Delaware Department of Education approved student database management application.

4.0. Initial Due Process

4.1. A student shall be afforded initial due process rights for discipline procedures which result in the removal of the student for one day or more from the Regular School Program due to a violation of the school's Student Code of Conduct.

4.1.1. Prior to any removal of one day or more from the Regular School Program due to a violation of the school's Student Code of Conduct:

4.1.1.1. The student had prior opportunity to be informed in accordance with the established Student Code of Conduct rules and/or regulations.
4.1.1.2. The administrator/designee shall inform, orally or in writing, the student of the allegation(s) against him/her, the conduct which forms the basis of the allegation(s), and the policy, rule, or regulation violated.

4.1.1.3. The student shall be given an explanation of the evidence supporting the allegation(s) and an opportunity to present his/her side of the story including any evidence.

4.2. Due Process Delay Provision

4.2.1. A student whose presence in the School Environment poses a threat to the health, safety, or welfare to persons or property within the School Environment, as determined by the Principal, may be immediately removed from school provided that, as soon as practicable thereafter, the initial due process procedures outlined in subsection 4.1 of this regulation are followed.

4.3. In addition to the initial due process rights, a student who is recommended for Alternative Placement or Expulsion shall receive applicable additional due process rights as outlined in Sections 7.0, 10.0, and 11.0 of this regulation.

5.0. Suspensions

5.1. Short-term Suspension

5.1.1. The Principal, in accordance with the rules of the district/charter school, shall have the right to impose a Short-term Suspension on any student in the school who has violated the school's Student Code of Conduct. The duration of the Short-term Suspension shall not be more than ten (10) consecutive school days for any single conduct violation or combination of violations which occurred during a single disciplinary incident.

5.1.2. The Superintendent, in accordance with the rules of the district/charter school, shall have the right to temporarily extend a student's Short-term Suspension beyond the ten school day limit pending a district/charter Alternative Placement Meeting decision or the district/charter's Board of Education decision regarding an Expulsion hearing or other formalized Disciplinary Action hearing for the student.

5.1.2.1. A student whose Short-term Suspension has been temporarily extended beyond ten (10) consecutive school days shall receive Appropriate Educational Services beginning on the first day of the extension. Educational services shall continue until the student's district/charter Alternative Placement Meeting decision has been rendered or the district/charter's Board of Education decision regarding the student's Expulsion hearing or other formalized Disciplinary Action hearing has concluded. This does not preclude a district/charter from providing Appropriate Educational Services during a Short-term Suspension prior to the extension.

5.2. Long-term Suspension

5.2.1. The Superintendent, in accordance with the rules of the district/charter school, shall have the right to impose a Long-term Suspension on any student in the school who has violated the school's Student Code of Conduct's listed acts of misconduct as defined in 14 DE Admin. Code 614.3. The duration of the Long-term Suspension shall not exceed the number of school days in a school year for any single conduct violation or combination of violations which occurred during a single disciplinary incident.

5.3. Prior to any Suspension from school, the initial due process procedures outlined in subsection 4.1 of this regulation shall be followed unless temporarily delayed as allowed in subsection 4.2 of this regulation.

5.4. When a student receives a Suspension from school (in or out-of-school), reasonable attempts to provide verbal notification to the Parent shall be made by the Principal prior to the Suspension being served. Written notification of the Suspension and information regarding the districts/charters appeal or
Grievance process shall be given or sent to the Parent as soon as practicable, but no later than three business days. The notification shall state the cause and duration of the Suspension.

5.4.1. The Parent or student may appeal the Suspension to the next administrative level in accordance with the district/charter's appeal or Grievance process.

5.5. Prior to the student's return from an out-of-school Suspension of three (3) school days or more, the Principal shall hold an in-person or phone conference with the Parent and student. A definite time, date, and place for the conference shall be designated by the Principal. The Principal may waive this conference requirement.

6.0. Requirement of Grievance Process

6.1. Each district/charter school shall have a written Grievance procedure. The district/charter school shall have the written Grievance procedures available for Parent review.

6.2. Grievance procedures, shall, at a minimum, be similar to the Grievance guidelines applicable to this regulation as posted on the Department of Education's website.

7.0. Assignment to an Alternative Program

7.1. Procedures for Student Referral

7.1.1. Criteria for student referral to an Alternative Placement.

7.1.1.1. A Principal may refer a student for Alternative Placement for any severe disciplinary violation for which Alternative Placement may be a consequence as specified in the district/charter school Student Code of Conduct and the student's behavior is within the defined conduct under 14 DE Admin. Code 614.

7.1.1.2. A Principal may refer a student for Alternative Placement for any offense listed in 14 Del.C. §4112. Students ineligible as a result of an offense listed in 14 DE Admin. Code 611 shall not be referred to a Consortium Discipline Alternative Program.

7.1.1.3. A Principal may refer a student for Alternative Placement in conjunction with an Attorney General's Report or court disposition that indicates that the student has been charged with a Violent Felony and/or is a threat to the health, safety, and welfare of others within the School Environment. Students ineligible as a result of an offense listed in 14 DE Admin Code 611 shall not be referred to a Consortium Discipline Alternative Program.

7.1.1.4. A Principal may refer a student for Alternative Placement in conjunction with chronic disruptive behaviors which result in Repeated Violations of the Student Code of Conduct after all school-based best practice interventions have been put into place for said student. This may include, but is not limited to, counseling services, the development and implementation of a behavior support or modification plan, mentoring, referral to mediation, and participation in an available In-School Alternative Program.

7.1.1.5. Referral to a state funded Consortium Discipline Alternative Program must also meet the criteria set forth in 14 DE Admin. Code 611.

7.1.1.5.1. A referral of a charter school student to a Consortium Discipline Alternative Program shall also comply with the provisions of 14 Del.C. §504A(8).

7.2. Responsibilities for Student Referral Which May Lead to Alternative Program Placement

7.2.1. When it is alleged that a student committed a violation of the Student Code of Conduct and may be subject to a recommendation for Alternative Placement, the following procedures shall occur:

7.2.1.1. The Principal shall conduct a preliminary investigation pursuant to Section 3.0 of this regulation to determine if there is reasonable basis to pursue Disciplinary Action.

7.2.1.2. If the preliminary investigation verifies that Disciplinary Action may be warranted, initial due process procedures outlined in Section 4.0 of this regulation shall be followed.
7.2.1.3. After the student has been afforded initial due process procedures, and if the Principal decides that Disciplinary Action will be taken, the student and Parent shall be notified.

7.2.1.4. The Principal may impose a Short-term Suspension. If the student is suspended, the student and the Parent shall be provided a copy of a Suspension form that includes a written notice of the Student Code of Conduct violation(s).

7.2.1.5. If the Principal decides that the Disciplinary Action should be a referral for an Alternative Placement, the Principal shall compile an Alternative Placement Packet for the student. The Alternative Placement Packet may also include other relevant information at the discretion of the Principal.

7.2.1.5.1. Schools/charters which utilize a site-based School Discipline Committee may have the committee meet to discuss the incident and make a recommendation to the Principal for the student to remain in the current school setting, or for referral to an Alternative Program.

7.2.1.6. A charter school Principal shall verify that the Alternative Placement referral meets the conditions set forth in 14 Del.C. §504A(8).

7.2.1.7. For all referrals for Alternative Placement for a general education or special education student, the Principal shall hold a Building Level Conference with the Parent and the student.

7.2.1.7.1. The Principal shall explain to the Parent and the student the purpose of the meeting is to inform them: 1) of the referral for Alternative Placement; 2) that the student may be suspended pending the outcome of the district/charter school Alternative Placement Team Meeting and; 3) of the procedures that will take place as follow-up to the referral for Alternative Placement.

7.2.1.7.2. The conference shall be held by phone or in person.

7.2.1.7.3. The Principal shall have at least one other person present to take notes during the conference or shall have the conference audio recorded.

7.2.1.8. Notice of the Alternative Placement Meeting shall be mailed to the Parent and the student via regular U.S. and certified mail at least five business days before the meeting is to occur.

7.3. Alternative Placement Meeting for Districts/Charter Schools

7.3.1. A district/charter school Alternative Placement Meeting shall take place to determine if an alternative setting is appropriate for a referred student.

7.3.1.1. The Parent and student shall receive verbal and written notification of the district/charter school's Alternative Placement Meeting. Parents and student may, but are not required to, attend the meeting.

7.3.1.2. The Parent and student shall be informed of the district/charter school Alternative Placement Team's decision for placement within one (1) business day of the meeting.

7.3.1.2.1. If the decision is to assign to an Alternative Placement, the Superintendent shall send follow-up written notice within three (3) business days to the Parent describing the circumstances which led to the placement, identifying the Alternative Program to which the student is being assigned, and the conditions which must be met in order for the student to return to the Regular School Program.

7.4. Student Assignment to an Alternative Program

7.4.1. The district/charter school representative shall contact the selected Alternative Program to set up a date and time for an Intake Meeting.

7.4.1.1. The Intake Meeting shall not occur unless all required participants are present, unless excused by the Superintendent, and documentation from the Alternative Placement Packet is provided.
7.4.1.1. Participants required to be present at the Intake Meeting include, but are not limited to, the student, the Parent, a district/charter school representative, the Alternative Program administrator, and other appropriate Alternative Program staff.

7.4.1.2. A student assigned to a Consortium Discipline Alternative Program must be registered in a district/charter school before the Intake Meeting is held.

7.4.1.3. The Intake Meeting will include the completion of necessary forms, including the Intake Form, which requires student and Parent signatures.

7.4.1.4. During the Intake Meeting, the district/charter school representative shall communicate, to all in attendance, the district/charter school's individualized goals and expectations for the alternatively placed student, including the Individualized Service Plan (ISP) under 14 DE Admin. Code 611, if applicable. The individualized goals and expectations shall be recorded on the Intake Form.

7.4.1.4.1. The Intake Form shall be signed by all parties, copied and distributed to the student and Parent, Alternative Program administrator, and district/charter school representative and shall become part of the student's educational record as defined by 14 DE Admin. Code 252.

7.4.2. The district/charter school shall maintain all alternatively placed students' enrollment status in Delaware Student Identification System (DELSIS) and eSchool PLUS database systems or successor Delaware Department of Education approved student database management system. A student placed in a Consortium Discipline Alternative Program shall have both an "active" and "service" status designation in DELSIS.

8.0. Procedures for Student Monitoring while in Alternative Placement

8.1. A Student Review for each student in the Alternative Program shall be completed. Quarterly reviews are recommended. Semi-annual reviews are required.

8.1.1. The Student Review shall include an examination of student attendance, grades and Discipline Records, including the student's strengths and weaknesses in connection with their individualized goals and expectations at the time of the Student Review.

8.1.2. The Student Review shall also include recommendations for continued progress and/or return (or recommendation not to return) to the Regular School Program.

9.0. Procedures for Student Return to the Regular School Program

When a Student Review results in a recommendation for return to the comprehensive school setting, a Transitional Meeting at the student's comprehensive school will be held between the Alternative Program representative, the district/charter school representative, the student, the Parent, the school administrator, a teacher, a school counselor, a student advisor or disciplinarian, if assigned. Other individuals may be invited as determined by the members of the Transitional Meeting team. This meeting shall take place prior to a student's return to that comprehensive school and shall result in a document setting forth the terms of the return.

10.0. Procedures for the Expulsion of Students

10.1. When it is alleged that a student committed a violation of the Student Code of Conduct and may be subject to a recommendation for Expulsion, the following procedures shall be followed.

10.1.1. The Principal shall conduct a preliminary investigation pursuant to Section 3.0 of this regulation to determine if there is reasonable basis to pursue Disciplinary Action.

10.1.2. If the investigation verifies that Disciplinary Action may be warranted, initial due process procedures outlined in Section 4.0 of this regulation shall be followed.
10.2. After the student has been afforded initial due process procedures, if the Principal decides that Disciplinary Action in the form of a recommendation for Expulsion will be made, the following procedures shall be followed:

10.2.1. Student will be given written notice of charges and the Parent shall be notified verbally and in writing as soon as practicable thereafter.

10.2.2. The student shall be given a Short-term Suspension pursuant to the criteria outlined in Section 6.0 of this regulation. The Parent shall be provided a copy of a Suspension form that includes a written notice of the Student Code of Conduct violation(s).

10.2.3. The Principal shall hold a Building Level Conference with the Parent and the student. The Principal shall explain to the Parent and the student the purpose of the meeting is to inform them: 1) of the recommendation for Expulsion; 2) that the student will be serving a Short-term Suspension pending the outcome of the Expulsion hearing and; 3) of the procedures that will take place as follow-up to the recommendation for Expulsion.

10.2.3.1. The conference shall be held by phone or in person.

10.2.3.2. The Principal shall have at least one other person present to take notes during the conference or shall have the conference audio recorded.

10.2.4. All documentation related to the recommendation for Expulsion shall be delivered to the Superintendent within two (2) business days of the Building Level Conference or seven (7) business days of the incident, whichever is sooner.

10.3. Expulsion Hearings

10.3.1. Upon receipt of a recommendation following the Building Level Conference, the Superintendent shall review documentation to affirm that appropriate discipline procedures were followed. The Superintendent shall, within ten (10) business days of the date of the incident, notify the student and the Parent by letter that a district-level Expulsion hearing will be held to consider the recommendation.

10.3.1.1 The Superintendent shall not have been a participant in the disciplinary investigation or Building Level Conference resulting in the recommendation for Expulsion.

10.3.2. Written notice shall, at a minimum, be sent by regular U.S. and certified mail to the Parent describing the circumstances which led to the recommendation for Expulsion and shall give the date, time, and location of the hearing.

10.3.3. The hearing shall be held not less than seven (7) business days or more than twenty (20) business days after receipt of written notice. The written notice shall be deemed to be received on the fourth business day following the day of mailing. This time period may be waived by agreement of the parties. A copy of the documentation shall be made available, upon request, to the student and Parent at the district/charter school office prior to the mailing.

10.3.4. If requested, the student and Parent will also be given a copy of the following:

10.3.4.1. The reason(s) for the recommendation;

10.3.4.2. The name(s) of witnesses who may appear; and

10.3.4.3. Copies of information that may be submitted as evidence.

10.3.5. The district/charter shall receive written Parent permission for any witness who is a minor.

10.3.6. The hearing shall be conducted by a district/charter Board of Education or Hearing Officer.

10.3.7. The Board of Education or Hearing Officer shall have full authority to admit or exclude evidence.
10.3.7.1. Evidence presented at the Expulsion hearing may include, but is not limited to, witness statements, police or Attorney General's Reports, and photocopies of evidence.

10.3.7.2. The Board of Education or Hearing Officer is not bound by common law or statutory rules of evidence or by technical or formal rules of procedure except as herein stated.

10.3.7.3. The Board of Education or Hearing Officer may exclude plainly irrelevant, immaterial, insubstantial, cumulative and privileged evidence.

10.3.7.4. The Board of Education or Hearing Officer may limit unduly repetitive proof, rebuttal and cross examination.

10.3.8. In conducting the hearing, the district/charter school shall submit evidence first followed by the response of the student, if any.

10.3.8.1. Further evidence by either party may be presented at the hearing if the Board of Education or Hearing Officer determines such evidence is necessary.

10.3.9. The Superintendent presenting the case on the part of the district/charter school shall not testify.

10.3.10. The hearing shall be recorded in a manner that will permit transcription.

10.3.11. The student shall have the following rights:

10.3.11.1. To be represented by legal counsel at the student's expense;

10.3.11.2. To cross-examine witnesses;

10.3.11.3. To testify and produce witnesses on his/her behalf; and

10.3.11.4. To obtain, at the student's expense, a copy of the transcript of the hearing.

10.3.12. In lieu of a formal Expulsion hearing, a student may elect to waive the hearing and admit to the student’s violation charge(s). The student and Parent shall submit a signed written hearing waiver which indicates that the student is knowingly and voluntarily waiving their right to the hearing. Such election may be exercised until the commencement of the hearing. This waiver does not absolve the student from required consequences under Federal or State Law or the Student Code of Conduct.

10.4. Expulsion Decision by Board of Education

10.4.1. Decision after Hearing Officer Presides over Hearing

10.4.1.1. Within five (5) business days following the conclusion of an Expulsion hearing conducted by a Hearing Officer, a written report shall be prepared by the Hearing Officer for the Superintendent.

10.4.1.1.1. The report shall frame the issues, summarize the evidence, state conclusions of fact, and make a recommendation as to whether the student should be expelled.

10.4.1.2. The Board of Education shall make its decision at the next scheduled public Board Meeting or additional scheduled public board meeting for the sole purpose of deciding on the student disciplinary matter in question.

10.4.1.2.1. The Board shall conduct a review of the Hearing Officer's recommendation. The Board may accept, reject, or modify the recommendation of the Hearing Officer. The Board's decision shall be in writing in accordance with subsection 10.4.5 of this regulation and shall be based solely upon the report from the Hearing Officer and the record of the Expulsion hearing, if any.

10.4.2. Decision after Board of Education Presides over Hearing

10.4.2.1. Following the conclusion of an Expulsion hearing conducted by the Board of Education, the Board shall frame the issues, summarize the evidence, state conclusions of fact and render its decision.
10.4.2.2. The Board's decision shall be in writing in accordance with subsection 10.4.5 and shall be based solely upon the record of the Expulsion hearing of which it presided over.

10.4.3. Decision After Waiving of Hearing Rights and Admission to Violation Charges

10.4.3.1. Within five (5) business days following the waiving of hearing rights and admission of violation charges, the Superintendent shall prepare a report for the Board of Education's action at its next public board meeting or an additional scheduled public board meeting for the sole purpose of deciding on the student disciplinary matter in question.

10.4.4. Eligible expelled students shall be placed in a Consortium Discipline Alternative Program in accordance with 14 Del.C. §1604 and 14 DE Admin. Code 611. The Board shall determine if the students not eligible for placement in a Consortium Discipline Alternative Program shall be expelled with or without Appropriate Educational Services.

10.4.5. Any decision to expel a student shall be reported to the Delaware Department of Education within five (5) business days of the Board's decision to expel. When a Board of Education expels a student, but determines the student shall not be placed at a Consortium Discipline Alternative Program, the written decision shall address with specificity the reason for non-placement and the evidence in support thereof. Such decisions shall be submitted to the Delaware Department of Education’s Office of School Climate and Discipline within five business days of such decision, with a copy to the student's Parent.

10.4.6. Except as is otherwise provided herein, within ten (10) business days of the decision by the Board, the Board, through its designee, shall submit its decision to the Superintendent and Parent and student in writing. The written decision shall include notice of the right to appeal to the State Board of Education.

10.5. Calculation of Time

10.5.1. In calculating the period of time for the term of the Expulsion, school days will be used. Students receiving residential services from a Department of Services for Children, Youth and Their Families (DSCYF) program shall have the amount of school days served in such program counted as part of the calculation of time for an Expulsion. This does not preclude a district/charter from transitioning a student from a YRS program to the Regular School Program through an Alternative Program. However, transition through an Alternative Program is not required.

11.0. Students with Disabilities

11.1. Nothing in this regulation shall alter a district/charter school's duties under the Individual with Disabilities Act (IDEA) or 14 DE Admin. Code 922 through 929. Nothing in this regulation shall prevent a district/charter school from providing supportive instruction to children with disabilities in a manner consistent with the Individuals with Disabilities Education Act (IDEA) and Delaware Department of Education regulations.

11.2. Nothing in this regulation shall alter a district/charter school's duties under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act to students who are qualified individuals with disabilities. Nothing in this regulation shall prevent a district/charter School from providing supportive instruction to such students.


30.0. Discipline Procedures Authority of School Personnel.

30.1. Case by case determination: School personnel may consider any unique circumstances on a case by case basis when determining whether a change in placement, consistent with the other requirements of this section, is appropriate for a child with a disability who violates a code of student conduct.
30.2. School personnel under 30.0 may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than ten (10) consecutive school days (to the extent those alternatives are applied to children without disabilities), and for additional removals of not more than ten (10) consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement under 36.0).

30.2.1. After a child with a disability has been removed from his or her current placement for ten (10) school days in the same school year, during any subsequent days of removal the public agency shall provide services to the extent required under 30.4 of this section.

30.3. Additional authority: For disciplinary changes in placement that would exceed ten (10) consecutive school days, if the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child’s disability pursuant to 30.5, school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities, except as provided in 30.4.

30.4. Services:

30.4.1. A child with a disability who is removed from the child’s current placement pursuant to 30.3 or 30.7 shall continue to receive educational services, as provided in 14 DE Admin. Code 923.1.2 so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child’s IEP; and receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

30.4.2. The services required by paragraphs 30.4.1, 30.4.3, 30.4.4, and 30.4.5 may be provided in an interim alternative educational setting.

30.4.3. A public agency is only required to provide services during periods of removal to a child with a disability who has been removed from his or her current placement for ten (10) school days or less in that school year, if it provides services to a child without disabilities who is similarly removed.

30.4.4. After a child with a disability has been removed from his or her current placement for ten (10) school days in the same school year, if the current removal is for not more than ten (10) consecutive school days and is not a change of placement under 36.0, school personnel, in consultation with at least one (1) of the child’s teachers, determine the extent to which services are needed, as provided in 14 DE Admin. Code 923.1.2 so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child’s IEP.

30.4.5. If the removal is a change of placement in 36.0, the child’s IEP Team determines appropriate services in 30.4.1.

30.5. Manifestation determination: Within ten (10) school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the LEA, the parent, and relevant members of the child’s IEP Team (as determined by the parent and the LEA) shall review all relevant information in the student’s file, including the child’s IEP, any teacher observations, and any relevant information provided by the parents to determine:

30.5.1. If the conduct in question was caused by, or had a direct and substantial relationship to, the child’s disability; or

30.5.2. If the conduct in question was the direct result of the LEA’s failure to implement the IEP.

30.5.3. The conduct shall be determined to be a manifestation of the child’s disability if the LEA, the parent, and relevant members of the child’s IEP Team determine that a condition in either 30.5.1 or 30.5.2 was met.
30.5.4. If the LEA, the parent, and relevant members of the child’s IEP Team determine the condition described in 30.5.2 was met, the LEA shall take immediate steps to remedy those deficiencies.

30.6. Determination that the behavior was a manifestation: If the LEA, the parent, and relevant members of the IEP Team make the determination that the conduct was a manifestation of the child’s disability, the IEP Team shall either:

30.6.1. Conduct a functional behavioral assessment, unless the LEA had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or

30.6.2. If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior; and

30.6.3. Except as provided in 30.7, return the child to the placement from which the child was removed, unless the parent and the LEA agree to a change of placement as part of the modification of the behavioral intervention plan.

30.7. Special circumstances: School personnel may remove a student to an interim alternative educational setting for not more than forty-five (45) school days without regard to whether the behavior is determined to be a manifestation of the child’s disability, if the child:

30.7.1. Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of the DOE or an LEA;

30.7.2. Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of the DOE or an LEA; or

30.7.3. Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the DOE or an LEA.

30.8. Notification: The LEA or other public agency shall ensure that the parents, guardian or Relative Caregiver of each child with disabilities receive written notice of the rules and regulations applicable to such children with respect to discipline, suspension, expulsion, and exclusion as a treatment procedure at the beginning of each school year or upon entry into a special education program during the school year; and

30.8.1. On the date on which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of a code of student conduct, the LEA shall notify the parents of that decision, and provide the parents the procedural safeguards notice described in 4.0.

30.9. Definitions: For purposes of this section, the following definitions apply:

“Controlled Substance” means a drug or other substance identified under schedules I, II, III, IV, or V in section 202c of the Controlled Substances Act (21 U.S.C. 812(c)).

“Illegal Drug” means a controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.

“Serious Bodily Injury” has the meaning given the term “serious bodily injury” under paragraph (3) of subsection (h) of section 1365 of title 18, United States Code.

“Weapon” has the meaning given the term “dangerous weapon” under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code.

31.0. Determination of Setting.
The child’s IEP Team determines the interim alternative educational setting for services in 30.3, 30.4.5 and 30.7.

32.0. Expedited Appeal

32.1. General: The parent of a child with a disability who disagrees with any decision regarding placement in 30.0 and 31.0, or the manifestation determination in 30.5, or an LEA that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or others may appeal the decision by requesting a hearing. The hearing is requested by filing a complaint pursuant to 7.0, 8.1 and 8.2.

32.2. A single, impartial hearing officer appointed by the DOE from its Registry of Impartial Hearing Officers shall make a determination regarding an appeal under paragraph (a) of this section. The hearing officer may:

32.2.1. Return the child with a disability to the placement from which the child was removed if the hearing officer determines that the removal was a violation of 30.0 or that the child’s behavior was a manifestation of the child’s disability; or

32.2.2. Order a change of placement of the child with a disability to an appropriate interim alternative educational setting for not more than forty-five (45) school days if the hearing officer determines that maintaining the current placement of the child is substantially likely to result in injury to the child or others.

32.2.3. The procedures in 32.1 and 32.2 may be repeated, if the LEA believes that returning the child to the original placement is substantially likely to result in injury to the child or to others.

32.3. Expedited due process hearing:

32.3.1. Whenever a hearing is requested in 32.1, the parents or the LEA involved in the dispute shall have an opportunity for an impartial due process hearing consistent with the requirements of 7.0 and 8.1 through 8.3, and 10.0 through 14.0, and 14 Del.C. Ch. 31, except as provided in 32.3.2 through 32.3.4.

32.3.2. The DOE shall be responsible for arranging the expedited due process hearing, which shall occur within twenty (20) school days of the date the complaint requesting the hearing is received by the DOE. The hearing officer shall make a determination within ten (10) school days after the hearing.

32.3.3. Unless the parents and LEA agree in writing to waive the resolution meeting described in 32.3.3.1 or agree to use the mediation process described in 6.0:

32.3.3.1. A resolution meeting shall occur within seven (7) days of receiving notice of the due process complaint; and

32.3.3.2. The expedited due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within fifteen (15) days of the receipt of the due process complaint.

32.3.4. The decisions on expedited due process hearings are appealable consistent with 14.0.

33.0. Placement During Appeals

When an expedited appeal under 32.0 has been made by either the parent or the LEA, the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period specified in 30.3 and 30.7, whichever occurs first, unless the parent and the DOE or LEA agree otherwise.

34.0. Protections for Children not Determined Eligible for Special Education and Related Services

34.1. General: A child who has not been determined to be eligible for special education and related services under these regulations and who has engaged in behavior that violated a code of student conduct, may assert any of the protections provided for in these regulations if the public agency had
knowledge (as determined in accordance with 34.2) that the child was a child with a disability before the
behavior that precipitated the disciplinary action occurred.

34.2. Basis of knowledge: A public agency shall be deemed to have knowledge that a child is a child
with a disability if before the behavior that precipitated the disciplinary action occurred:

34.2.1. The parent of the child expressed concern in writing to supervisory or administrative personnel
of the appropriate educational agency, or a teacher of the child, that the child is in need of special
education and related services;
34.2.2. The parent of the child requested an evaluation of the child pursuant to 14 DE Admin. Code
925.1.0 through 925.12.0; or
34.2.3. The teacher of the child, or other personnel of the LEA, expressed specific concerns about a
pattern of behavior demonstrated by the child directly to the director of special education of the
agency or to other supervisory personnel of the agency.

34.3. Exception: A public agency would not be deemed to have knowledge under 34.2 if the parent of
the child has not allowed an evaluation of the child pursuant to 14 DE Admin. Code
925.1.0 through 925.12.0; or has refused services under these regulations; or the child has been evaluated in
accordance with 14 DE Admin. Code 925.1.0 through 925.12.0 and determined to not be a child with a
disability under these regulations.

34.4. Conditions that apply if no basis of knowledge: If a public agency does not have knowledge that a
child is a child with a disability (in accordance with 34.2 and 34.3) prior to taking disciplinary measures
against the child, the child may be subjected to the disciplinary measures applied to children without
disabilities who engage in comparable behaviors consistent with the following requirements:

34.4.1. If a request is made for an evaluation of a child during the time period in which the child is
subjected to disciplinary measures in 30.0, the evaluation shall be conducted in an expedited manner.
34.4.2. Until the evaluation is completed, the child remains in the educational placement determined
by school authorities, which can include suspension or expulsion without educational services.
34.4.3. If the child is determined to be a child with a disability, taking into consideration information
from the evaluation conducted by the agency and information provided by the parents, the agency
shall provide special education and related services in accordance with these regulations, including
the requirements of 30.0 through 36.0 and section 612(a)(1)(A) of the Act.

35.0. Referral to and Action by Law Enforcement and Judicial Authorities

35.1. Rule of construction: Nothing in these regulations prohibits an agency from reporting a crime
committed by a child with a disability to appropriate authorities or prevents Delaware law enforcement
and judicial authorities from exercising their responsibilities with regard to the application of Federal and
State law to crimes committed by a child with a disability.

35.2. Transmittal of records: An agency reporting a crime committed by a child with a disability shall
ensure that copies of the special education and disciplinary records of the child are transmitted for
consideration by the appropriate authorities to whom the agency reports the crime.

35.2.1. An agency reporting a crime under this section may transmit copies of the child’s special
education and disciplinary records only to the extent that the transmission is permitted by the Family
Educational Rights and Privacy Act.

36.0. Change of Placement Because of Disciplinary Removals

36.1. For purposes of removals of a child with a disability from the child’s current educational
placement in 30.0 through 35.0, a change of placement occurs if:

36.1.1. The removal is for more than ten (10) consecutive school days; or
36.1.2. The child has been subjected to a series of removals that constitute a pattern:
36.1.2.1. Because the series of removals total more than ten (10) school days in a school year;
36.1.2.2. Because the child’s behavior is substantially similar to the child’s behavior in previous incidents that resulted in the series of removals; and
36.1.2.3. Because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another; or.

36.1.3. The child has been subjected to a series of in-school removals totaling more than ten (10) school days and it deprives the child from meeting the goals set out in the IEP; progressing in the general curriculum though another setting; and receiving those services and modifications described in the IEP; or the child has been subjected to a series of removals from transportation and it results in the child’s absence from school for more than ten (10) school days.

36.2. The public agency determines on a case by case basis whether a pattern of removals constitutes a change of placement.

36.3. This determination is subject to review through due process and judicial proceedings.
Disciplinary Approaches Addressing Specific Infractions and Conditions

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

LAWS

11 Del.C. §1457. Possession of a weapon in a safe school and recreation zone; class D, E, or F felony; class A or B misdemeanor.

(a) Any person who commits any of the offenses described in subsection (b) of this section, or any juvenile who possesses a firearm or other deadly weapon, and does so while in or on a "Safe School and Recreation Zone" shall be guilty of the crime of possession of a weapon in a Safe School and Recreation Zone.

(b) The underlying offenses in Title 11 shall be:

(1) Section 1442. Carrying a concealed deadly weapon; class G felony; class D felony.
(2) Section 1444. Possessing a destructive weapon; class E felony.
(3) Section 1446. Unlawfully dealing with a switchblade knife; unclassified misdemeanor.
(4) Section 1448. Possession and purchase of deadly weapons by persons prohibited; class F felony.
(5) Section 1452. Unlawfully dealing with knuckles-combination knife; class B misdemeanor.
(6) Section 1453. Unlawfully dealing with martial arts throwing star; class B misdemeanor.

(c) For the purpose of this section, "Safe School and Recreation Zone" shall mean:

(1) Any building, structure, athletic field, sports stadium or real property owned, operated, leased or rented by any public or private school including, but not limited to, any kindergarten, elementary, secondary or vocational-technical school or any college or university, within 1,000 feet thereof; or
(2) Any motor vehicle owned, operated, leased or rented by any public or private school including, but not limited to, any kindergarten, elementary, secondary, or vocational-technical school or any college or university; or
(3) Any building or structure owned, operated, leased or rented by any county or municipality, or by the State, or by any board, agency, commission, department, corporation or other entity thereof, or by any private organization, which is utilized as a recreation center, athletic field or sports stadium.

(d) Nothing in this section shall be construed to preclude or otherwise limit a prosecution of or conviction for a violation of this chapter or any other provision of law. A person may be convicted both of the crime of possession of a weapon in a Safe School and Recreation Zone and of the underlying offense as defined elsewhere by the laws of the State.

(e) It shall not be a defense to a prosecution for a violation of this section that the person was unaware that the prohibited conduct took place on or in a Safe School and Recreation Zone.

(f) It shall be an affirmative defense to a prosecution for a violation of this section that the weapon was possessed pursuant to an authorized course of school instruction, or for the purpose of engaging in any school-authorized sporting or recreational activity. The affirmative defense established in this section shall be proved by a preponderance of the evidence. Nothing herein shall be construed to establish an affirmative defense with respect to a prosecution for any offense defined in any other section of this chapter.

(g) It is an affirmative defense to prosecution for a violation of this section that the prohibited conduct took place entirely within a private residence, and that no person under the age of 18 was present in such
private residence at any time during the commission of the offense. The affirmative defense established in this section shall be proved by the defendant by a preponderance of the evidence. Nothing herein shall be construed to establish an affirmative defense with respect to a prosecution for an offense defined in any other section of this chapter.

(h) This section shall not apply to any law-enforcement or police officer, or to any "private security guard" defined in § 1302(20) of Title 24.

(i) For purposes of this section only, "deadly weapon" shall include any object described in § 222(5) or (12) of this title or BB guns.

(j) The penalty for possession of a weapon in a Safe School and Recreation Zone shall be:

1. If the underlying offense is a class B misdemeanor, the crime shall be a class A misdemeanor;
2. If the underlying offense is an unclassified misdemeanor, the crime shall be a class B misdemeanor;
3. If the underlying offense is a class E, F, or G felony, the crime shall be one grade higher than the underlying offense.
4. If the underlying offense is a class D felony, the crime shall also be a class D felony.

If the underlying offense is a class D felony, the crime shall also be a class D felony.

In the event that an elementary or secondary school student possesses a firearm in a Safe School and Recreation Zone in addition to any other penalties contained in this section, the student shall be expelled by the local school board or charter school board of directors for a period of not less than 180 days unless otherwise provided for in federal or state law. The local school board or charter school board of directors may, on a case by case basis, modify the terms of the expulsion.

(6) In the event that an elementary or secondary school student possesses a deadly weapon other than a firearm in a Safe School and Recreation Zone in addition or as an alternative to any other penalties contained in this section, the student may be suspended for a period of not less than 30 days unless otherwise provided for in federal or state law. The local school board or charter school board of directors may, on a case by case basis, modify the terms of the suspension.


(c) Student possession of weapons and unlawful drugs. Whenever a school employee has reliable information that would lead a reasonable person to believe that a person on school property or at a school function has on his or her person, concealed in that person's possessions, or placed elsewhere on school property:

2. Any deadly weapon, destructive weapon, dangerous instrument or incendiary or explosive device as prohibited by Title 11, the school employee shall immediately report the incident to the principal, who shall conduct a thorough investigation. If the investigation verifies that good reason exists to believe that a crime has been committed, the principal shall immediately notify the appropriate police agency of the incident. If the police agency determines that probable cause exists to believe that a crime has been committed, then the principal shall file a written report of the incident with the Department of Education within 5 working days.

REGULATIONS


1.0 Written Policy Required

1.1 Each school district and charter school shall have a written policy implementing the Gun-Free Schools Act [(20 U.S.C. §7961)] and complying with 11 Del.C. §1457(j) or its successor statute. At a minimum, the policy must contain the following elements:
1.1.1 A student who is determined to have brought a firearm to school, or to have possessed a firearm at school, shall be expelled for not less than one year.

1.1.2 Modification to the expulsion requirement may be made on a case by case basis by the chief school officer. Any modification to the expulsion requirement must be made in writing to the Department.

1.1.3 The definition of "Firearm" shall be the same as the meaning given to the term in the federal Gun-Free Schools Act.

2.0 Submission of the Policy to the State Department of Education

2.1 Each school district and charter school shall submit the following to the Delaware Department of Education annually, in such form as the Department requires:

2.1.1 An electronic copy of its policy implementing the Gun-Free Schools Act [(20 U.S.C. §7961)] and complying with 11 Del.C. §1457(j) or its successor statute; and

2.1.2 An electronic copy of any revised policy implementing the Gun-Free Schools Act [(20 U.S.C. §7961)] and complying with 11 Del.C. §1457(j) or its successor statute under the policy implemented in accord with this regulation within ninety (90) days of such revision regardless of whether revisions were made as a result of changes to federal, state or local law, regulations, guidance or policies; and

2.1.3 Descriptions of the expulsions imposed under 11 Del.C. §1457(j) or its successor statute and under the policy implemented in accord with this regulation.

3.0 Individuals with Disabilities Act

Nothing in this regulation shall alter a district or charter school's duties pursuant to the Individuals with Disabilities Education Act.

Other weapons

LAWS

11 Del.C. §1457. Possession of a weapon in a safe school and recreation zone; class D, E, or F felony: class A or B misdemeanor.

(a) Any person who commits any of the offenses described in subsection (b) of this section, or any juvenile who possesses a firearm or other deadly weapon, and does so while in or on a "Safe School and Recreation Zone" shall be guilty of the crime of possession of a weapon in a Safe School and Recreation Zone.

(b) The underlying offenses in Title 11 shall be:

(1) Section 1442. Carrying a concealed deadly weapon; class G felony; class D felony.

(2) Section 1444. Possessing a destructive weapon; class E felony.

(3) Section 1446. Unlawfully dealing with a switchblade knife; unclassified misdemeanor.

(4) Section 1448. Possession and purchase of deadly weapons by persons prohibited; class F felony.

(5) Section 1452. Unlawfully dealing with knuckles-combination knife; class B misdemeanor.

(6) Section 1453. Unlawfully dealing with martial arts throwing star; class B misdemeanor.

(c) For the purpose of this section, "Safe School and Recreation Zone" shall mean:

(1) Any building, structure, athletic field, sports stadium or real property owned, operated, leased or rented by any public or private school including, but not limited to, any kindergarten, elementary, secondary or vocational-technical school or any college or university, within 1,000 feet thereof; or
(2) Any motor vehicle owned, operated, leased or rented by any public or private school including, but not limited to, any kindergarten, elementary, secondary, or vocational-technical school or any college or university; or

(3) Any building or structure owned, operated, leased or rented by any county or municipality, or by the State, or by any board, agency, commission, department, corporation or other entity thereof, or by any private organization, which is utilized as a recreation center, athletic field or sports stadium.

(d) Nothing in this section shall be construed to preclude or otherwise limit a prosecution of or conviction for a violation of this chapter or any other provision of law. A person may be convicted both of the crime of possession of a weapon in a Safe School and Recreation Zone and of the underlying offense as defined elsewhere by the laws of the State.

(e) It shall not be a defense to a prosecution for a violation of this section that the person was unaware that the prohibited conduct took place on or in a Safe School and Recreation Zone.

(f) It shall be an affirmative defense to a prosecution for a violation of this section that the weapon was possessed pursuant to an authorized course of school instruction, or for the purpose of engaging in any school-authorized sporting or recreational activity. The affirmative defense established in this section shall be proved by a preponderance of the evidence. Nothing herein shall be construed to establish an affirmative defense with respect to a prosecution for any offense defined in any other section of this chapter.

(g) It is an affirmative defense to prosecution for a violation of this section that the prohibited conduct took place entirely within a private residence, and that no person under the age of 18 was present in such private residence at any time during the commission of the offense. The affirmative defense established in this section shall be proved by the defendant by a preponderance of the evidence. Nothing herein shall be construed to establish an affirmative defense with respect to a prosecution for an offense defined in any other section of this chapter.

(h) This section shall not apply to any law-enforcement or police officer, or to any "private security guard" defined in § 1302(20) of Title 24.

(i) For purposes of this section only, "deadly weapon" shall include any object described in § 222(5) or (12) of this title or BB guns.

(j) The penalty for possession of a weapon in a Safe School and Recreation Zone shall be:

(1) If the underlying offense is a class B misdemeanor, the crime shall be a class A misdemeanor;

(2) If the underlying offense is an unclassified misdemeanor, the crime shall be a class B misdemeanor;

(3) If the underlying offense is a class E, F, or G felony, the crime shall be one grade higher than the underlying offense.

(4) If the underlying offense is a class D felony, the crime shall also be a class D felony.

(5) In the event that an elementary or secondary school student possesses a firearm in a Safe School and Recreation Zone in addition to any other penalties contained in this section, the student shall be expelled by the local school board or charter school board of directors for a period of not less than 180 days unless otherwise provided for in federal or state law. The local school board or charter school board of directors may, on a case by case basis, modify the terms of the expulsion.

(6) In the event that an elementary or secondary school student possesses a deadly weapon other than a firearm in a Safe School and Recreation Zone in addition or as an alternative to any other penalties contained in this section, the student may be suspended for a period of not less than 30 days unless otherwise provided for in federal or state law. The local school board or charter school board of directors may, on a case by case basis, modify the terms of the suspension.
(c) Student possession of weapons and unlawful drugs. Whenever a school employee has reliable information that would lead a reasonable person to believe that a person on school property or at a school function has on his or her person, concealed in that person's possessions, or placed elsewhere on school property:

(2) Any deadly weapon, destructive weapon, dangerous instrument or incendiary or explosive device as prohibited by Title 11, the school employee shall immediately report the incident to the principal, who shall conduct a thorough investigation. If the investigation verifies that good reason exists to believe that a crime has been committed, the principal shall immediately notify the appropriate police agency of the incident. If the police agency determines that probable cause exists to believe that a crime has been committed, then the principal shall file a written report of the incident with the Department of Education within 5 working days.

REGULATIONS

30.0. Discipline Procedures Authority of School Personnel.
30.7. Special circumstances: School personnel may remove a student to an interim alternative educational setting for not more than forty-five (45) school days without regard to whether the behavior is determined to be a manifestation of the child’s disability, if the child:

30.7.1. Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of the DOE or an LEA;

30.9. Definitions: For purposes of this section, the following definitions apply:
“Weapon” has the meaning given the term “dangerous weapon” under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code.

Students with chronic disciplinary issues

LAWS

(a)(1) A pupil accepted for enrollment in a school or program pursuant to this chapter shall be entitled to remain enrolled therein until graduation from the school or completion of the program provided that the pupil continues to meet the requirements for such school or program, provided however, that upon the concurrence of the boards of both the district of residence and the receiving district, a pupil's right to remain enrolled may be terminated prior to graduation from or completion of the program where such termination is based upon the pupil's

b. Multiple violations of, or one or more serious violations of, the receiving district's student code of conduct.

The Department of Education shall establish a program component which will provide alternative educational and related services for the more severe discipline problems in the public schools. This component will serve primarily secondary school students, including but not limited to: youngsters who have been expelled from regular schools, students who may be subject to expulsion, and others who have serious violations of the local school district discipline code. The Department of Education shall
provide rules and regulations for the conduct of programs authorized under this section subject to the following limitations:

(1) School districts shall make application to the Department of Education for funding to implement programs authorized under this section. Preference shall be given to applications from consortia of school districts. To the extent feasible, programs offered under this component should serve eligible pupils within a county, however, multiple sites may be operated by a single consortia of school districts within a county.

(2) Any application submitted under this section shall specify the types and level of services to be provided and an estimate of the number of youngsters to be served. The application shall also include a budget of proposed expenditures during a fiscal year. That budget shall indicate, at a minimum, the funds being requested from appropriations authorized under this section and funds to be obtained from all other sources.

(3) All applications submitted to the Department of Education under this section shall indicate an agreement to fund at least 30 percent of the total cost of services provided from sources of funding other than those authorized under this section.

(4) All projects funded under this section shall submit an annual evaluation report on the effectiveness of the program to the Department of Education. Such report shall incorporate the data and information specified by the Department.

(5) School districts shall be permitted to use funds collected in accordance with the provisions of Chapter 6 of this title to make tuition payments for youngsters assigned to programs authorized under this section.

(6) Nothing in this section shall prohibit a consortia of school districts from contracting for educational or related services with public or private agencies when operating programs authorized under this section.

(7) The provisions of § 4130 of this title shall not apply to youngsters enrolled in programs authorized under this section.

(8) A student 16 years of age or less who is expelled or suspended pending expulsion by a local school district or charter school shall be presumed appropriate for placement in a Consortium Discipline Alternative Program site, provided the student is not otherwise ineligible by statute or regulation for placement in such a program. The burden of establishing that a student is not appropriate for placement in a Consortium Discipline Alternative Program shall be on the local school district or charter school. Any student not shown by preponderance of evidence to be inappropriate for placement in a Consortium Discipline Alternative Program shall be placed in such a program.

REGULATIONS


1.0. Eligible Students

1.3 School districts may place a student in a Consortium Discipline Alternative Program for classroom or school environment disruptions only if:
1.3.1 Such disruptions are chronic and repetitive; Attendance and truancy

LAWS

14 Del.C. §2702. Compulsory attendance requirements; evaluation of readiness; exit interview.

(a) Except as otherwise provided, the following provisions are applicable to school attendance in this State:

(1) Every person in this State who has legal custody, guardianship of the person, or legal control of a child between 5 and 16 years of age, including any person acting as a caregiver pursuant to the provisions of § 202(f) of this title, shall enroll the child in a public school in the school district of the person's residence.

(2) Every person who has legal custody, guardianship of the person, or legal control of a student, including any person acting as a caregiver pursuant to the provisions of § 202(f) of this title, who is enrolled in a public school of this State shall send the student to the school each day of the minimum school term and to any academic improvement activities required by § 153 of this title.

(3) Every student who is enrolled in a public school of this State shall attend the school each day of the minimum school term and any academic improvement activities required by § 153 of this title. A student who has been absent from school without a valid excuse for more than 3 school days in a school year is a truant. A truant and the parent of a truant are subject to the administrative procedures and court proceedings set out in subchapter II of this chapter.

(b) For the purposes of this section, a child shall be considered 5 years of age if that child celebrates the child's fifth birthday according to the following schedule:

1993-94 school year - Fifth birthday on or before November 30, 1993.
1994-95 school year - Fifth birthday on or before October 31, 1994.
1995-96 school year - Fifth birthday on or before September 30, 1995.
1996-97 school year - Fifth birthday on or before August 31, 1996.
Subsequent school years - Fifth birthday on or before August 31 of the respective year.

Local school authorities may grant exceptions to the above schedule for entry into school if they determine that such exception is in the best interest of the child.

(c) The following provisions shall be applicable to the administration of subsection (a) of this section in regard to compulsory attendance in the kindergarten for a child age 5 years:

(1) If a child is a resident of the State at the time of that child's eligibility for admission to the kindergarten at age 5, the parents, guardian or legal custodian of that child may request that school authorities evaluate the child's readiness for attendance and may request a delay of 1 year in that attendance. However, admission to first grade will be authorized only after school authorities evaluate the child's readiness for attendance.

(2) If a child was not a resident of the State at the time of that child's eligibility for admission to the kindergarten at age 5, the parents, guardian or legal custodian of that child may request that school authorities evaluate the child's readiness for attendance and on the basis of that evaluation authorize admission to grade 1.

(3) The parent, guardian, legal custodian or relative care giver, as defined in § 202(f)(2) of this title, of a child who is eligible for admission to kindergarten at age 5 may opt for the child to attend kindergarten for a half-day per day, totaling 440 hours in a school year.
(d) The following provisions shall be applicable in regard to statewide minimum mandatory attendance requirements in each school year for children in grades K through 12.

(1) Following the tenth day of unexcused absence by a student, the school shall immediately notify the parent or parents or guardian and a visiting teacher for the district shall visit the student's home;

(2) Following the fifteenth day of unexcused absence by a student, the student's parent or parents or guardian shall be notified by certified mail to appear at the school within 10 days of notification for a conference and counseling;

(3) Following the twentieth day of unexcused absence by a student, the school shall refer the case for prosecution;

(4) Following the completion of prosecution of the case and the subsequent failure of the student to return to school within 5 school days thereof, the school shall immediately notify the Department of Services for Children, Youth and Their Families requesting intervention services by the Department. The Department shall contact the family within 10 business days.

(e) Following the tenth unexcused day of attendance by a student in grades 6 through 12 inclusive, the building principal shall notify a visiting teacher of such unexcused days.

(f) If contacted by the school pursuant to paragraph (d)(2) of this section, each parent or guardian of a student shall sign a contract with the district agreeing they will make every reasonable effort to:

(1) Have their child or children abide by the school code of conduct;

(2) Make certain their child attends school regularly; and

(3) Provide written documentation for the reasons for any absence.

(g) Any day of summer school, any session of after school or Saturday extra instruction, or any session of mentoring which a child is required to attend as an academic improvement activity in conformity with § 153 of this title shall be considered a school day for purposes of this chapter, and for purposes of § 901 of Title 10, § 1100 of Title 11, and § 301 of Title 31 of this Code, or wherever the term school day or its equivalent is used in a provision of this Code designed to minimize or punish truancy.

(h) A child over the age of 16 may withdraw from public school prior to graduation if both of the following circumstances exist:

(1) Where the student is fewer than 18 years of age, written consent is granted by the child's parent or guardian.

(2) An exit interview is conducted where the student and the student's parent or legal guardian have been advised that withdrawal from school shall likely reduce the student's future earning potential and increase the student's likelihood of being unemployed in the future. During the exit interview, the student who is withdrawing from school shall be given information that has been prepared and supplied by the Department regarding the detrimental impacts and effects of early withdrawal from school, along with any available information about training and employment opportunities. The school and the student and the student's parent or legal guardian shall also evaluate any available support services, interventions or programs that might assist the student in remaining enrolled until graduation. A school is required to make 3 good faith attempts to contact a student's parent or legal guardian to schedule an exit interview pursuant to this paragraph.

14 Del.C. §2705. Exemption of children from compulsory attendance requirements.

(a) Other provisions of this title notwithstanding, a child may be exempted from § 2702 of this title upon request of the parent, guardian or other person legally having control of that child when the request is supported by written documentation of a physician, psychiatrist, psychologist or neurologist, as the case may require. The request and documentation shall be addressed to the superintendent of schools of the district in which the child resides and, in the case of a child with a disability or disabilities, the child's
Individual Education Program (IEP) team, for the development of an educational program and
determination of whether a change of placement is necessary to ensure that the child receives a free and
appropriate public education.

(b) Any disputed decision under this section shall be presented first to the board of education of the
school district of which the child is a resident and may thereafter be appealed to the State Board of
Education. The decision of the State Board of Education shall be final. In the case of a child with a
disability or disabilities, all of the federal regulatory due process procedures of Part B of the Individuals


Any child affected with diphtheria, measles, scarlet fever or smallpox shall be excluded from the schools
until permission of the proper school officer for the child to return is granted; and intercourse between
pupils of the schools and the family or house, when there is any case of 1 of these contagious diseases,
must be forbidden until the official permission is given to return to the school.


In this chapter:

(1) "Court" means a Justice of the Peace Court.

(2) "Parent" means a biological or natural parent, an adoptive parent, a person legally charged with the
care or custody of a person under 18 years of age, a person who has assumed responsibility for the
care of a person under 18 years of age, or a person acting as a caregiver pursuant to the provisions of
§ 202(f) of this title who has enrolled the pupil in grades kindergarten through 12 of a public school in
this State.

(3) "Principal" means the highest administrative official of a public school and includes a person or
group of persons designated by the principal to deal with school attendance.

(4) "Record" means written materials and exhibits forwarded to a court by the school with a referral
under this subchapter or admitted into evidence at a court hearing.

(5) "School year" means the period of attendance determined by a pupil's local school board pursuant
to § 1049 of this title, or in the case of a charter school as determined by the board of directors of the
charter school consistent with the school's charter, and any additional academic improvement activities
identified in § 2702(g) of this title that a pupil may be required to attend during or following such period
of attendance.

(6) "Student" means a person who is enrolled in kindergarten through grade 12 of a public school of this
State.

(7) "Truant" means a student who has been absent from school without valid excuse for more than 3
school days during a school year.

(8) "Valid excuse" means an excuse which is approved in the regulations of the district board of
education of the school district in which the pupil is or should be enrolled pursuant to the provisions of
this title, or in the case of a pupil enrolled in a charter school, by the board of directors of the charter
school.


(a) Subject to the rules and regulations of the local school board, pupils enrolled in the free public schools
may be excused by the superintendent of schools or persons authorized by the superintendent. Pupils
enrolled in charter schools may be excused by the principal of the school or persons authorized by the
principal, subject to rules and regulations promulgated by the board of directors of the charter school.
(b) No pupil who could otherwise legally fail to attend school pursuant to § 2702(a) of this title may do so without the written consent of such person or persons having legal control of that pupil.


(a) Any pupil under the age of 16 identified by a police officer as being off school property without official authorization may be returned to that pupil’s home school.

(b) Any pupil under the age of 16 identified by a police officer as being off school property without official authorization may be detained by the police for a period not to exceed 2 hours for the purpose of notification of parent or guardian. This detention may be within the police station but not in a criminally confined area.

14 Del.C. §2724. Notification to parents and students.

At the beginning of a school year each school district or public school shall notify each student and the parent of each student of the school attendance requirements of this Code, including the procedures and penalties applicable to truancy. The school district or school may determine the form of the notification.

14 Del.C. §2725. Absences without excuse; truancy conferences.

(a) If a student has been absent from school without a valid excuse 1 or more days, the principal of the school may take such action as the principal considers appropriate.

(b) If a student is truant, the principal may schedule a truancy conference with the student, the student’s parent and the principal pursuant to § 2726 of this title. The conference may be attended by other persons as the principal may include.

(c) Following a truancy conference the school shall decide whether or not to file a charge against the parent for a violation of § 2702 of this title; provided however, that the principal shall refer the case for prosecution following the twentieth day of unexcused absence by a student during the school year, in compliance with § 2702(d) of this title, and may refer the case before the twentieth day of unexcused absence if the principal determines it is appropriate to do so.

(d) The fact that a student or student’s parent may attend or has attended a truancy conference does not bar the principal filing a complaint with a court. The principal’s failure to hold a truancy conference does not bar the filing of a complaint with a court and adjudication by a court.


The provisions of § 4122 of this title shall apply to truancy conferences. The principal shall determine the date, time and place of the conference and shall give all participants notice at least 1 week prior to the conference. In conducting a truancy conference, the principal may exclude any person, including a parent or a student, from the conference or part of a conference.


No person shall be prosecuted for violation of § 2702 of this title if that person, within 3 days from the time that the person is notified by the superintendent of schools or persons authorized by the superintendent, presents an excuse in writing satisfactory to such superintendent of schools, and complies with the requirements of such § 2702 of this title. The mailing of a notice to the usual address of the offending party shall be sufficient notification.


(a) When the school charges a parent or a student with a violation of § 2702 of this title, the school shall file a written complaint in the court. The complaint shall be on such form(s) as the court may require. The school shall be the complainant and the parent or the student shall be the defendant. The court must
determine whether probable cause exists to issue a warrant or summons against the person charged. When there is probable cause to find that a student is truant, probable cause to issue a warrant or summons for a parent shall exist when the parent is named as the parent or guardian on the student's school records and the parent resides in Delaware.

(b) The school shall attach to the complaint any record relevant to the allegations of the complaint.

(c) When a complaint is filed, all sanctions imposed by the principal shall remain in effect unless suspended or terminated by the principal or stayed by the court.

(d) The school may request that the court postpone adjudication. The court in its discretion may postpone the proceedings and may impose conditions on the student or parent.

14 Del.C. § 2729. Failure to send; affirmative defense; penalties.

(a) If a charge is filed against a parent for a violation of § 2702 of this title, the court shall determine whether the evidence establishes beyond a reasonable doubt that the parent has violated the section.

(b) In the prosecution of a parent for a violation of § 2702 of this title, it shall be an affirmative defense that the parent has made substantial and reasonable efforts to comply with the compulsory attendance requirements of § 2702 but is unable to cause the child to attend school. It shall also be an affirmative defense that the parent does not have legal custody of the student. Other affirmative defenses may be permitted as required in the interests of justice. If the court determines the affirmative defense is valid it shall dismiss the complaint against the parent and the school may file a complaint against the student pursuant to § 2730 of this title.

(c) This section shall not apply to a parent whose child is receiving instruction pursuant to § 2703 of this title, to children exempted from compulsory attendance requirements pursuant to § 2705 of this title, or whose children are in compliance with school attendance requirements.

(d) A parent who is determined to have violated § 2702 of this title is guilty of an unclassified misdemeanor and shall be sentenced as follows:

   (1) For a first offense, a fine of not less than $25 nor more than $300, or imprisonment for not more than 10 days or both;
   (2) For a second offense, a fine of not less than $50 nor more than $500, or imprisonment for not more than 20 days or both;
   (3) For a third or subsequent offense, a fine of not less than $230 nor more than $1,150, or imprisonment for not more than 30 days or both.

(e) To the extent possible the fine shall be commensurate with the number of days the student was absent from school without valid excuse.

(f) The court may order the parent to perform unpaid community service in lieu of a fine. The court may require that all or part of the service may be performed for a public school district.

(g) The court may also order as conditions of release prior to judgment or as conditions of sentence upon conviction such conditions as the court considers necessary to obtain compliance with school attendance requirements. These conditions include but are not limited to the following:

   (1) Verifying the child's attendance with the school;
   (2) Meeting with school officials;
   (3) Taking the child to school;
   (4) Taking the child to the bus stop;
   (5) Attending school with the child;
   (6) Undergoing medical, psychological or psychiatric evaluations and following the evaluator's recommendations;
(7) Undergoing an evaluation for drug, alcohol, or other substance abuse and following the evaluator's recommendations; and
(8) Taking the child for medical, psychological or psychiatric evaluation or for drug, alcohol or other substance abuse evaluation and following the evaluator's recommendations.

(h) Upon conviction, the name and address of the parent and a summary of the disposition of any offenses for which the parent was convicted shall be reported by the Court to the Division of Family Services of the Department of Services for Children, Youth and Their Families and to the Division of Social Services of the Department of Health and Social Services.

(i) The provisions of § 4218 of Title 11 (probation before judgment) shall apply to a parent charged with violation of § 2702 of this title.

14 Del.C. §2730. Failure to attend; penalties.
(a) The school may file a civil charge of truancy against the student in the Justice of the Peace Court if:
   (1) The student is age 12 or older; and/or
   (2) The Court determines that a parent who is charged with violating § 2702 of this title has a valid affirmative defense under § 2729(b) of this title.

(b) The court shall determine whether a preponderance of the evidence establishes that the student has violated § 2702 of this title.

(c) If the Court determines the student has violated § 2702 of this title, it shall adjudicate the student a truant and may order the following remedial dispositions:
   (1) Community service;
   (2) Counseling;
   (3) Substance abuse evaluation and treatment;
   (4) Mental health evaluation and treatment;
   (5) A curfew with hours set by the court;
   (6), (7) [Repealed.]
   (8) Prohibition of the student's participation in or attendance at any extra-curricular activity or social event which is an official school event or is sponsored by the school or held on school property;
   (9) A recommendation that the student enroll in the school in alternative educational and related services in accordance with Chapter 16 of this title; and
   (10) Such other action as is permitted by statute or by court rule.

(a) The court shall retain jurisdiction of the matter until all terms of the court's order have been complied with regardless of any change in the student's age, marital status or choice of educational source or location.

(b) Notwithstanding any provision of this Code to the contrary, if the court determines a student has not complied with the terms of the court's order, it may charge the noncompliant student with criminal contempt pursuant to § 1271 of Title 11, and fully adjudicate the matter in the Justice of the Peace Court.

(c) A juvenile against whom criminal contempt proceedings pursuant to this section and § 1271 of Title 11 have been initiated shall have the right to counsel at all stages.

(d) If a juvenile is not represented by counsel at his or her initial Justice of the Peace Court appearance, the Court shall order the Chief Defender to assign counsel to represent the juvenile.

(e) Prohibitions on the waiver of the right to counsel shall be as set forth in § 1007C of Title 10.
(f) Unless prohibited, the right to counsel may be waived in accordance with the Rules of the Justice of the Peace Court.


(a) A parent convicted of a violation of § 2702 of this title may appeal to the Court of Common Pleas in the county in which the judgment was given. The appeal shall be filed within 15 days from the date of conviction. On appeal the Court shall make a de novo determination.

(b) No stay shall be granted pending an appeal pursuant to subsection (a) of this section unless the person appealing shall, at the time the appeal is taken, gives bond in any amount with surety to be fixed by the Court.

(c) A student who has been adjudicated truant pursuant to § 2730 of this title, or has been adjudicated in contempt pursuant to § 2731 of this title, may appeal to the Family Court in the county in which the adjudication occurred. The appeal shall be filed within 15 days of the date of the adjudication. On appeal the Court shall make a de novo determination based on the record below.

(d) No appeal of the adjudication of truancy or truancy-related contempt pursuant to subsection (c) of this section shall stay execution of the remedial disposition unless a judge of the Family Court orders a stay.

14 Del.C. §2733. Jurisdiction; venue.

(a) The Justice of the Peace Court shall have exclusive original jurisdiction of complaints filed pursuant to this title.

(b) All complaints under this title shall be filed in a Justice of the Peace Court in the county where the school the child is required to attend is located or in the county in which the office of the school district which contains the child's school is located.

(c) In the event that a student withdraws from school for any reason other than age and does not re-enroll in another public school, the court, in its discretion, may retain jurisdiction for the purpose of ensuring that the student's alternative educational environment was not an attempt to avoid the compulsory attendance requirements of § 2702 of this title.

REGULATIONS


1.0. Required Attendance Policy

1.1 Each school district shall have an attendance policy that is in accordance with the requirements of the Delaware Code and which defines and describes the district's rules concerning attendance for students K to 12.

2.0. Distribution of Attendance Policy

2.1 Each district shall distribute and explain these policies to every student at the beginning of each school year.

2.2 Each district shall distribute and explain these policies to each student enrolling or re-enrolling during the school year.

2.3 Each district shall post the attendance policy on its website and notify a parent, guardian or Relative Caregiver of each student in writing where this policy can be accessed. A hard copy shall be provided to a parent, guardian or Relative Caregiver upon request.

3.0. Reporting Requirements and Timelines

3.1 Each public school district shall have an electronic copy of its current attendance policy on file with the Department of Education.
3.2 Each public school district shall provide an electronic copy of any attendance policy within ninety (90) days of such revision(s) regardless of whether said revisions were made as a result of changes to Federal, state or local law, regulations, guidance or policies.

Substance Use

LAWS

The General Assembly finds and declares that a substantial drug and alcohol trafficking and abuse problem exists in this State among school age children, in schools and on school campuses, parks and playgrounds. It is the purpose of this chapter to support increased efforts by local law enforcement agencies, working in conjunction with school districts and with state and local drug and alcohol prevention agencies, to suppress trafficking, and to prevent drug and alcohol abuse among school-age children in schools and on school campuses, through the development of innovative and model programs jointly undertaken by local law enforcement agencies and school districts. Further, it is the intent of the General Assembly to establish a program of financial and technical assistance for local law enforcement and school districts, and to formulate a joint policy of pursuing both demand reduction (through education and prevention programs), and supply reduction (through law enforcement).

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "Division" shall mean the Division of Substance Abuse and Mental Health.

(2) "Enhanced apprehension, prevention and education efforts" shall mean projects and programs which do not compete with, but which supplement and improve currently existing substance abuse prevention and education programs.

(3) "Entity" shall mean any committee, agency or group approved by the Division; any law enforcement committee, agency or group approved by the Department of Safety and Homeland Security; or any committee, agency or group composed of public school teachers and/or administrators.

14 Del.C. §3803. Division of Substance Abuse and Mental Health.

(a) The Division of Substance Abuse and Mental Health shall allocate and award all funds appropriated for any purposes set forth in § 3801 and elsewhere in this chapter. Such funds shall be awarded only to programs or projects, undertaken jointly by a law enforcement entity and a local school district or other public school entity, to prevent and/or suppress substance abuse and the trafficking of prohibited or controlled substances in the public schools. All applications for such funds shall be applications made jointly by the school and law enforcement entities involved in the proposed project.

(b) In the allocation and awarding of funds to joint law enforcement and public school recipients, the Division shall obtain the comments and recommendations of the State Drug-free School Advisory Committee. All allocation and awarding of funds by the Division shall be in accordance with the Administrative Procedures Act, and with those guidelines promulgated by the State Drug-free School Advisory Committee which do not conflict with existing state laws.

(c) Each application shall be accompanied by a fiscal note, prepared by the joint applicants, which sets forth all anticipated first-year costs and the anticipated total costs of the project or program. The Division may return any application to the applicant with a request that any or all expenses be more fully set out, together with the applicant's explanations or reasons for each projected cost or expense.

(a) All criteria for the rating of applications for funds under this chapter shall be developed by the State Drug-free School Advisory Committee. The State Drug-free School Advisory Committee shall be composed of 16 members appointed by the Governor: 1 police chief; 1 sheriff; 1 prosecutor from the State Department of Justice who specializes in drug and/or alcohol cases; 1 attorney primarily engaged in criminal defense; 1 person from each county appointed by an active parent group or community-based group concerned primarily with drug and/or alcohol problems; 1 representative of the Division of Substance Abuse and Mental Health; 1 county drug and/or alcohol program administrator; and a permanent, full-time member of a drug treatment clinic or office, public or private. In addition, membership shall include the Attorney General or the Attorney General's designee; 4 members who are professional employees of the Department of Education, 1 of whom shall be the Secretary of Education; and a drug and/or alcohol prevention professional employed by the Department of Education. The Committee shall review applications made to the Division for those funds which are awarded pursuant to this chapter, and shall recommend approval for those applications which the Committee deems appropriate, and which it deems are consistent with the guidelines and procedures established pursuant to this chapter. The Division shall not approve nor release any funds until approval under § 3805(b) of this title is first obtained.

(b) The State Drug-free School Advisory Committee shall develop specific guidelines and procedures which shall set forth the terms and conditions upon which grants of funds are made. Funds disbursed under this chapter shall not be used for the acquisition of equipment.

(c) Funds disbursed under this chapter shall not be used to pay informants for information on drug and/or alcohol offenders. Not more than 10 percent of the total amount of funds disbursed under this chapter shall be used for administrative costs.

14 Del.C. §3805. Local drug-free school advisory committees.

(a) A local drug-free school advisory committee may be established and appointed by each local board of education. Such committee may be either a newly created committee, or an existing local drug and alcohol abuse committee formerly established by the county, municipality or school district. Although the committee may have additional members, its basic membership shall be composed of the following residents of the district or area affected:

(1) One local law enforcement officer;
(2) An administrator or teacher, employed by the local school district, who has expertise in drug and alcohol programs;
(3) One administrator and 1 teacher from the school or school district which has direct involvement in the program;
(4) One parent who has a son or daughter enrolled in the school;
(5) Three high school students;
(6) One person who is a permanent full-time employee of the state, county or municipality, and whose duties primarily involve drug education or treatment;
(7) Any other person who is involved, by employment or as a volunteer, in any drug and/or alcohol prevention program.

(b) No project or program, financed in whole or in part with funds under this chapter, shall begin in any school until such project or program has first received the approval of the local drug-free school advisory committee.
(a) Funds shall be awarded primarily for projects undertaken jointly by the school district or other public school entity, and a law enforcement entity. In participating in any joint application for the funds, the public school entity shall consult with the superintendent of each affected school. Any funds disbursed under this chapter are supplemental to and shall not supplant local funds which would, in the absence of this chapter, be otherwise available to suppress and prevent drug and alcohol abuse among school age children, or which otherwise would be used to curtail drug and alcohol trafficking in and around schools, parks and playgrounds.
(b) When applying for funds under this chapter, the local law enforcement entity and the public school entity may jointly enter into those agreements between themselves which would allow and facilitate the administrative, fiscal and operational responsibilities created by their joint project or program.
(c) Funds disbursed under the provisions of this chapter shall be utilized primarily for enhanced apprehension, prevention, and education efforts, and for obtaining material and information resources relating to drug and alcohol abuse and drug trafficking in and around schools, parks and playgrounds. Enhanced apprehension, prevention and education efforts shall include, but are not limited to:
   (1) Drug and alcohol trafficking intervention programs;
   (2) School and classroom oriented programs, each of which shall utilize a tested drug and alcohol education curriculum that provides in-depth and accurate information on drugs and alcohol. Such programs may include the participation of local law enforcement agencies and/or qualified drug and alcohol use prevention specialists. Each such program shall be designed to increase, in both teachers and students, an awareness of the dangers of drugs and alcohol;
   (3) Family-oriented programs aimed at preventing drug and alcohol abuse, which programs may include the participation of any community-based organization which is experienced in the successful operation of a family-oriented program;
   (4) Development and distribution of appropriate written and audio-visual aids for the training of persons not otherwise trained or experienced in the handling of drug and alcohol-related problems and offenses within the public schools;
   (5) Development of prevention and intervention programs for elementary school teachers and students, including utilization of existing prevention and intervention programs, where appropriate;
   (6) Development of a coordinated intervention system that identifies “at-risk” students, and students with chronic drug and alcohol abuse problems.

14 Del.C. §3807. State Board of Education; Department of Public Safety.
The Department of Safety and Homeland Security and the Department of Education shall both have the power to monitor and evaluate the projects and programs under this chapter, and to make comments and suggestions to the Division.

(c) Student possession of weapons and unlawful drugs. Whenever a school employee has reliable information that would lead a reasonable person to believe that a person on school property or at a school function has on his or her person, concealed in that person's possessions, or placed elsewhere on school property: (1) Any controlled substance prohibited by Title 16; or
   (2) Any deadly weapon, destructive weapon, dangerous instrument or incendiary or explosive device as prohibited by Title 11, the school employee shall immediately report the incident to the principal, who shall conduct a thorough investigation. If the investigation verifies that good reason exists to believe that a crime has been committed, the principal shall immediately notify the appropriate police agency of the
incident. If the police agency determines that probable cause exists to believe that a crime has been committed, then the principal shall file a written report of the incident with the Department of Education within 5 working days.

(a) The Department of Education with approval of the State Board of Education shall establish and implement statewide alcohol/substance abuse educational programs to be provided in each grade, kindergarten through grade 12, in each public school in this State. The programs required by this section shall consist of no fewer than 10 hours per school year in grades kindergarten through 4 and 15 hours per school year in grades 5 through 12. Each program shall be taught by appropriately trained certified teachers and the instruction shall be comprehensive, age-appropriate and sequential in nature.
(b) Any in-service training required by this section shall be provided within the contracted school year as provided in § 1305 of this title.

14 Del.C. §4117. Substance abuse.
(a) Each school district shall designate an administrator in every school as the person responsible for reporting, to parents and/or law enforcement agencies, any violation and/or problems relating to the abuse of controlled substances. Such administrator shall not be liable under the laws of this State for any act or omission committed by the administrator in the performance of that administrator's duties and responsibilities under this section.
(b) No administrator having reporting responsibilities under this section shall be required to report any substance abuse violation and/or problem to a parent if such person, being the principal of the school, reasonably believes that a parent or parents are a cause of or are involved in the violation and/or problem; nor shall any other administrator, having reporting responsibilities under this section, be required to report any substance abuse violation and/or problem to a parent, if such administrator and the principal of the school both believe that a parent or parents are a cause of or are involved in the violation or problem.

REGULATIONS

14 DE Admin. Code §612. Possession, use or distribution of drugs and alcohol.
1.0. Purpose
The purpose of this regulation is to outline the minimum requirements to be included in all public school district and charter school policies on the Possession, Use, or Distribution of Drugs and Alcohol.
2.0. General Provisions
2.1. The following provisions shall apply to all public school district and charter schools:
   2.1.1. The possession, use or distribution of Alcohol, a Drug, a Drug Like Substance, a Look Alike Substance and Drug Paraphernalia are prohibited within the School Environment, unless medically necessary.
   2.1.2. Student lockers are the property of the school and may be subjected to search at any time with or without reasonable suspicion.
   2.1.3. Student motor vehicle use to and in the School Environment is a privilege which may be extended by school districts or charter schools to students in exchange for their cooperation in the maintenance of a safe school atmosphere. Reasonable suspicion of a student's use, possession or distribution of Alcohol, a Drug, a Drug Like Substance, a Look Alike substance or Drug Paraphernalia in the School Environment, may result in the student being asked to open an automobile in the School Environment to permit school authorities to look for such items. Failure to open any part of the motor
vehicle on the request of school authorities may result in the police being called to conduct a search, and will result in loss of the privilege to bring the vehicle on campus.

2.1.4. All Alcohol, Drugs, Drug Like Substances, Look Alike Substances and Drug Paraphernalia found in a student's possession shall be turned over to the principal or designee, and be made available, in the case of a medical emergency, for identification. All substances shall be sealed and documented, and, in the case of substances covered by 16 Del.C. Ch. 47, turned over to police as potential evidence.

3.0. Definitions

The following definitions shall apply to this regulation, unless a specific regulation, statute or the context in which they are used clearly indicates otherwise, and shall apply to all public school districts and charter schools.

"Alcohol" means alcohol or any alcoholic liquor capable of being consumed by a human being, as defined in 4 Del.C. §101 including alcohol, spirits, wine and beer.

"Designated Caregiver" means, pursuant to 16 Del.C. §4902A(5), a person who: is at least 21 years of age unless the person is the parent or legal guardian of a minor who is a qualifying patient; has agreed to assist with a patient's medical use of marijuana; has not been convicted of an excluded felony offense; and assists no more than 5 qualifying patients with their medical use of marijuana.

"Distribute", "Distributing" or "Distribution" means the transfer or attempted transfer of Alcohol, a Drug, a Drug Like Substance, or Drug Paraphernalia to any other person with or without the exchange of money or other valuable consideration.

"Drug" means any controlled substance or counterfeit substance as defined in 16 Del.C. §4701 including, for example, narcotic Drugs such as heroin or cocaine, amphetamines, anabolic steroids, and marijuana, and shall include any prescription substance which has been given to or prescribed for a person other than the student in whose possession it is found.

"Drug Like Substance" means any noncontrolled and nonprescription substance capable of producing a change in behavior or altering a state of mind or feeling, including, for example, some over the counter cough medicines, certain types of glue, caffeine pills and diet pills. The definition of Drug Like Substance does not include tobacco or tobacco products which are governed by 14 DE Admin. Code 877 Tobacco Policy.

"Drug Paraphernalia" means all equipment, products and materials as defined in 16 Del.C. §4701 including, for example, roach clips, miniature cocaine spoons and containers for packaging Drugs.

"Look Alike Substance" means any noncontrolled substance which is packaged so as to appear to be, or about which a student makes an express or implied representation that the substance is, a Drug or a noncontrolled substance capable of producing a change in behavior or altering a state of mind or feeling. See 16 Del.C. §4752A.

"Medical Marijuana Oil" means as defined in 16 Del.C. §4902A(10).

"Nonprescription Medication" means any over the counter medication; some of these medications may be a “Drug Like Substance.”

"Possess" “Possessing” or "Possession" means that a student has on the student's person, in the student's belongings, or under the student's reasonable control by placement of and knowledge of the whereabouts of, Alcohol, a Drug, a Drug Like Substance, a Look Alike Substance, or Drug Paraphernalia.

"Prescription Medication(s)" means any substance obtained directly from or pursuant to a valid prescription or order of a practitioner, as defined in 16 Del.C. §4701(24), while acting in the course of
his or her professional practice, and which is specifically intended for the student in whose possession it is found.

“Relative Caregiver” means an individual who meets the criteria and requirements of 14 Del.C. §202 (f)(1).

"School Environment" means within or on school property, and at school sanctioned or supervised activities, including, for example, on school grounds, on school buses, at functions held on school grounds, at extra curricular activities held on and off school grounds, on field trips and at functions held at the school in the evening.

"Use" means that a student is reasonably known to have ingested, smoked or otherwise assimilated Alcohol, a Drug or a Drug Like Substance, or is reasonably found to be under the influence of such a substance.

4.0. Requirement of Each School District and Charter School to have a Policy

4.1. Each school district and charter school shall have a policy on file and update it periodically. The policy shall include, at a minimum, the following:

4.1.1. A system of notification of each student and their parent, guardian or Relative Caregiver at the beginning of the school year, of the state and district policies and regulations. In addition a system for the notification of each student and their parent, guardian or Relative Caregiver whenever a student enrolls or re enrolls during the school year of the state and district policies and regulations.

4.1.2. A statement that state and district or charter school policies shall apply to all students, except that with respect to children with disabilities, applicable federal and state laws will be followed.

4.1.3. A written policy which sets out procedures for reporting incidents to police authorities, parents, guardians or Relative Caregivers and to the Department of Education, while maintaining confidentiality.

4.1.4. A written policy on how evidence is to be kept, stored and documented, so that the chain of custody is clearly established prior to giving such evidence over to the police.

4.1.5. A written policy on search and seizure.

4.1.6. A program of assistance for students with counseling and referral to services as needed.

4.1.7. A policy in cases involving a Drug Like Substance or a Look Alike Substance for establishing that the student intended to use, possess or distribute the substance as a Drug.

4.1.8. A policy which establishes how Prescription Medications and Nonprescription Medications shall be handled in the School Environment and when they will be considered unauthorized and subject to these state and local policies.

4.1.9. A policy which sets out the conditions for return after expulsion for Alcohol or Drug infractions.

4.2. Notwithstanding any of the foregoing to the contrary, all policies adopted by public school districts or charter schools relating to the possession or use of Drugs shall permit a student's discretionary use and possession of an asthmatic quick relief inhaler with an individual prescription label, an autoinjectable epinephrine with individual prescription label, or an insulin pump for continuous subcutaneous insulin infusion (“insulin pump”); provided, nevertheless, that the student uses the inhaler, autoinjectable epinephrine, or an insulin pump pursuant to prescription or written direction from a state licensed health care practitioner; a copy of which shall be provided to the school district or charter school; and further provided that the parent(s) or legal custodian(s) of such student provide the school district or charter school with written authorization for the student to possess and use the inhaler, autoinjectable epinephrine, or an insulin pump at such student's discretion or under the school nurse’s supervision, together with a form of release satisfactory to the school district or charter school releasing the school district or charter school and its employees from any and all liability resulting or arising from
the student's discretionary use and possession of the inhaler, autoinjectable epinephrine, or an insulin
pump, and further provided that the school nurse may impose reasonable limitations or restrictions
upon the student's use and possession of the inhaler, autoinjectable epinephrine, or an insulin pump
based upon the student's age, level of maturity, behavior, or other relevant considerations.

4.2.1. Parents or legal custodians shall not be required to provide or sign a form of release where the
student's use and possession of an asthmatic quick relief inhaler, autoinjectable epinephrine, or an insulin
pump is determined by the student's IEP or Section 504 Team to be necessary for the
student's educational placement.

4.2.2. Except as provided for in a student's Section 504 Plan or IEP, the school nurse may not
unilaterally impose limitations or restrictions on a student's use and possession of an asthmatic quick
relief inhaler, autoinjectable epinephrine, or an insulin pump if a Section 504 or IEP Team has
determined the use of the medication is necessary for the student's educational placement.

(For students who use prescribed asthmatic quick relief inhalers, autoinjectable epinephrine, or an
insulin pump for continuous subcutaneous insulin therapy, see 14 DE Admin. Code 817,
Administration of Medications and Treatments)

4.3. A Designated Caregiver may possess for the purpose of administering and may administer to a
minor qualifying patient Medical Marijuana Oil in a school bus and on the grounds or property of the
preschool, or primary or secondary school in which a minor qualifying patient is enrolled. The
Designated Caregiver shall not be a school nurse or other school employee hired or contracted by a
school unless he or she is a parent or legal guardian of the minor qualifying patient, and said parent or
legal guardian possesses no more than the number of dose(s) prescribed per day of Medical Marijuana
Oil which is kept at all times on their person.

5.0. Reporting Requirements and Timelines

5.1. Each local school district and charter school shall have an electronic copy of its current
possession,
use and distribution of Drugs and Alcohol policy on file with the Department of Education.

5.2. When a local school district or charter school revises its possession, use, and distribution of Drugs
and Alcohol policy, it shall notify the Department of Education of the revised policy within thirty (30)
days of the revision, even if the revision was made because of changes in federal, state or local law,
regulations, guidance or policies.


1.0. Program Requirements

1.1. Each school district and charter school shall have a sequential, skill-based K to 12 Comprehensive
Health Education Program based on the Delaware Health Education Standards that establishes a
foundation of understanding the relationship between personal behavior and health and shall include at
a minimum the following:

1.1.3. The use of the state content standards for health education for grades K to 12 to address the
core concepts: tobacco, alcohol and other drugs, injury prevention and safety, nutrition and physical
activity, family life and sexuality, personal health and wellness, mental health and community and
environmental health with minimum hours of instruction as follows:

1.1.3.1. In grades K to 4, a minimum of thirty (30) hours in each grade of comprehensive health
education and family life education of which ten (10) hours, in each grade, must address drug and
alcohol education.

1.1.3.2. In grades 5 and 6, a minimum of thirty five (35) hours in each grade of comprehensive
health education and family life education of which fifteen (15) hours, in each grade, must address
drug and alcohol education.
1.1.3.3. In grades 7 and 8, separate from other subject areas, a minimum of sixty (60) hours of comprehensive health education and family life education of which fifteen (15) hours, in each grade, must address drug and alcohol education. If all of the 60 hours are provided in one year at grade 7 or 8, an additional fifteen hours of drug and alcohol education must be provided in the other grade.

1.1.3.4. In grades 9 to 12, one half (1/2) credit of comprehensive health education is required for graduation of which fifteen (15) hours of this 1/2 credit course must address drug and alcohol education. In addition, no less than two (2) hours of this 1/2 credit course shall include a cardiopulmonary resuscitation (CPR) instructional program which uses the most current evidence-based emergency cardiovascular care guidelines, and incorporates psychomotor skills learning into the instruction, use of an Automated External Defibrillator (AED) as well as a component on the life saving and life enhancing effects of organ and tissue donation. This 1/2 credit course may be provided in the 9th, 10th, 11th or 12th grade. In each of the remaining three grades, fifteen (15) hours of drug and alcohol education must be provided for all students. CPR instruction, use of an AED and organ/tissue donation awareness shall be integrated into each high school Health Education Program no later than the 2015-2016 school year.

1.1.7. Inclusion of an evidence-based tobacco, alcohol, drug and interpersonal violence prevention program.


1.0. Required Policy

In order to improve the health of students and school personnel, each school district and charter school in Delaware shall have a policy which at a minimum:

1.1. Prohibits the use of or distribution of tobacco products in school buildings, on school grounds, in school leased or owned vehicles, even when they are not used for student purposes, and at all school affiliated functions.

1.2. Includes procedures for communicating the policy to students, school staff, parents, guardians or Relative Caregivers, families, visitors and the community at large.

1.3. Makes provisions for or refers individuals to voluntary cessation education and support programs that address the physical and social issues associated with nicotine addiction.

2.0. The Tobacco Policy Shall Apply to

2.1. Any building, property or vehicle leased, owned or operated by a school district, charter school or assigned contractor.

2.1.1. School bus operators under contract shall be considered staff for the purpose of this policy.

2.2. Any private building or other property including automobiles or other vehicles used for school activities when students and staff are present.

2.3. Any non educational groups utilizing school buildings or other educational assets.

2.4. Any individual or a volunteer who supervises students off school grounds.

4.0. Reporting Requirements and Timelines

4.1. Each public school district and charter school shall have an electronic copy of its current tobacco policy on file with the Department of Education.

4.2. Each public school district and charter school shall provide an electronic copy of any tobacco policy within ninety (90) days of such revision(s) regardless of whether said revisions were made as a result of changes to Federal, state or local law, regulations, guidance or policies.

30.0. Discipline Procedures Authority of School Personnel.

30.7.2. Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of the DOE or an LEA; or

30.9. Definitions: For purposes of this section, the following definitions apply:

“Controlled Substance” means a drug or other substance identified under schedules I, II, III, IV, or V in section 202c of the Controlled Substances Act (21 U.S.C. 812(c)).

“Illegal Drug” means a controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.


9.0. Pupil Conduct on School Buses

9.1. Districts shall have a policy concerning the behavior of pupils on school buses that shall, at a minimum, contain the following rules which if not followed may result in the suspension or denial of bus riding privileges:

9.1.18. Do not smoke, use profanity, eat or drink on the bus.

Bullying, harassment, or hazing

LAWS


For the purposes of this chapter, the following terms shall have the following meanings:

(2) "Good cause" means a change in a child's residence due to a change in family residence, a change in the state in which the family residence is located, a change in a child's parent's marital status, a change caused by a guardianship proceeding, placement of a child in foster care, adoption, participation by a child in a foreign exchange program, a reported, recorded, and substantiated instance of "bullying" against their child as defined in § 4161 of this title, or participation by a child in a substance abuse or mental health treatment program, or a set of circumstances consistent with this definition of "good cause."


(a)(2) A pupil accepted for enrollment in a school or program pursuant to this chapter shall remain enrolled therein for a minimum of 2 years unless, during that 2-year period,

g. The pupil's parents or guardians wish to terminate the agreement due to a reported, recorded, and substantiated instance of "bullying" against their child as defined in § 4161 of this title


(d) A pupil accepted for enrollment in a charter school pursuant to this chapter shall remain enrolled therein for a minimum of 1 year unless, during that 1-year period, good cause exists for the failure to meet this requirement. For purposes of this section only, "good cause" shall be defined as a change in a child's residence due to a change in family residence, a change in the state in which the family residence is
located, a change in the marital status of the child’s parents, a change caused by a guardianship proceeding, placement of a child in foster care, adoption, participation by a child in a foreign exchange program, participation by a child in a substance abuse or mental health treatment program, a reported, recorded and substantiated instance of “bullying” against their child as defined in § 4161 of this title, mutual agreement by the board of directors of the charter school, the board of the receiving district and the parent or parents or guardian of such child to the termination of such enrollment, or a set of circumstances consistent with this definition of “good cause.”

14 Del.C. §4112A. Office of school criminal offense and bullying ombudsperson.

(a) There is hereby established within the State Department of Justice, the Office of School Criminal Offense and Bullying Ombudsperson.

(b) The purpose of the Ombudsperson is to ensure the proper administration of the school criminal offense reporting law contained in § 4112 of this title and the school bullying prevention law contained in § 4164 of this title.

(c) The Ombudsperson shall have the power to:

(1) Investigate and seek to resolve complaints made by and concerns of members of the public, school officials, and pupils regarding criminal offenses and incidents of bullying committed on school property;

(2) Investigate complaints regarding the alleged failure of school officials to report criminal offenses as required under § 4112 of this title and incidents of bullying as required under § 4164 of this title;

(3) Establish policies and procedures for eliciting, receiving, investigating, verifying, and resolving complaints; and

(4) Perform such other acts as are necessary to carry out the purpose set forth in subsection (b) of this section.

14 Del.C. §4112B. Ombudsperson access.

(a) The Ombudsperson shall have access to any school record or pupil file which is relevant to the performance of the Ombudsperson’s duties, including any record otherwise considered confidential under Delaware law.

(b) The Ombudsperson may initiate an investigation of any criminal offense committed on school property or any incident of bullying independent of the receipt of a specific complaint.

(c) The Ombudsperson shall protect the confidentiality of pupils’ records and files as required under Delaware law.

(d) Notwithstanding any other provision of law, the Ombudsperson shall not disclose the identity of any complainant unless a court orders such disclosure or the complainant consents in writing to the disclosure of the complainant’s identity.

14 Del.C. §4164. School bullying awareness and prevention; criminal youth gang detection.

(a) School bullying prevention and criminal youth gang detection training program. The Department of Justice and the Department of Education, in collaboration with law-enforcement agencies, the Delaware State Education Association, the Delaware School Boards Association, and the Delaware Association of School Administrators, shall identify and maintain a school bullying prevention and criminal youth gang detection training program for school district and charter school employees.

(b) Prohibition of bullying.

(1) Each school district and charter school shall prohibit bullying and reprisal, retaliation, or false accusation against a target, witness, or one with reliable information about an act of bullying.
(2) Each school district and charter school shall establish a policy which, at a minimum, includes the following components:

a. A statement prohibiting bullying of any person on school property or at school functions or by use of data or computer software that is accessed through a computer, computer system, computer network, or other electronic technology of a school district or charter school from kindergarten through grade 12. For purposes of this section, “school property” and “school functions” mean as defined in § 4112 of this title.

b. A definition of bullying no less inclusive than that in § 4161 of this title.

c. Direction to develop a school-wide bullying prevention program.

d. A requirement that each school establish a site-based committee that is responsible for coordinating the school’s bully prevention program including the design, approval, and monitoring of the program. A majority of the members of the site-based committee must be members of the school professional staff, of which a majority must be instructional staff. The committee also shall contain representatives of the administrative staff, support staff, student body (for a school enrolling students in grades 7 through 12), parents, and staff from the before- or after-school program or programs. These representatives shall be chosen by members of each respective group, except that the school principal shall appoint the representatives of the nonemployee groups. The committee shall operate on a 1-person, 1-vote principle. If a site-based school discipline committee has been established under § 1605(7)a. and b. of this title, that committee shall vote whether to accept the responsibilities of this paragraph (b)(2)d.

e. A requirement that any school district or charter school employee that has reliable information that would lead a reasonable person to suspect that a person is a target of bullying must immediately report it to the administration.

f. A requirement that each school have a procedure for the administration to promptly investigate in a timely manner and determine whether bullying has occurred, and that such procedure include investigation of such instances, including a determination of whether the target of the bullying was targeted or reports being targeted wholly or in part due to the target’s race, age, marital status, creed, religion, color, sex, disability, sexual orientation, gender identity or expression, or national origin. This subsection does not preclude schools from identifying other reasons or criteria why a person is a target of bullying.

g. A requirement that, to the extent that funding is available, each school develop a plan for a system of supervision in nonclassroom areas. The plan must provide for the review and exchange of information regarding nonclassroom areas.

h. An identification of an appropriate range of consequences for bullying.

i. A procedure for a student or parent to provide information on bullying activity. However, this paragraph does not permit formal disciplinary action solely based on an anonymous report.

j. A requirement that a parent of any target of bullying or perpetrator of bullying be notified and provided with a form to be generated by the Department of Justice describing the role of the Department of Justice School Ombudsman and providing contact information. This form must also inform a parent of the parent’s right to know when the bullying incident in question has been reported to the Department of Education under paragraph (b)(2)k. of this section.

k. A requirement that all reported incidents of bullying, regardless of whether the school could substantiate the incident, be reported to the Department of Education within 5 working days under Department of Education regulations. The school shall notify a parent of all students involved in the reported incident when the report is made.

l. A statement prohibiting retaliation following a report of bullying.
m. A procedure for communication between school staff members and medical professionals who are involved in treating students for bullying issues.

n. A requirement that the school bullying prevention program be implemented throughout the year, and integrated with the school's discipline policies and § 4112 of this title.

(c) Dissemination of policy and accountability.

(1) Each school district and charter school shall adopt the policy consistent with subsection (b) of this section and submit a copy to the Department of Education by January 1 of each year, or by January 1 of a newly approved charter school's first year of operation. For purposes of this paragraph, "submit" includes providing access to the policy via the school district's or charter school's website. Each school district and charter school shall submit a revised policy to the Department of Education within 30 calendar days of a school district's or charter school's revision. The Department of Education shall review a policy or a revised policy submitted under this paragraph for compliance with state and federal law.

(2) Each school district and charter school shall include the policy adopted under subsection (b) of this section in the student and staff handbook. If no handbook is available, or if it is not practical to reprint new handbooks, each school district and charter school shall distribute a copy of the policy annually to all students, parents, faculty, and staff. Each school district and charter school shall provide the telephone number of the Department of Justice School Ombudsperson in writing to parents, students, faculty, and staff and provide the telephone number on the school district's or charter school's website and the website of each school in the school district. Each school district shall prominently display the telephone number of the Department of Justice School Ombudsperson in each school in the school district. Each charter school shall prominently display the telephone number of the Department of Justice School Ombudsperson in the school.

(3) [Repealed.]

(4) The Department of Education shall prepare an annual report, which must include a summary of all reported and all substantiated incidences of bullying, a summary of the information gathered under paragraph (b)(2)f. of this section, and the results of audits conducted under paragraph (d)(4) of this section. The Department shall post the report required by this subsection on its website.

(d) Duties of the Department of Education.

(1) The Department of Education shall collaborate with the Department of Justice to identify and maintain a model policy that is applicable to kindergarten through grade 12, and post this policy, along with the contact information for the School Ombudsperson, on their websites in order to assist the school districts and charter schools. In addition, the Department of Education shall promulgate a uniform cyberbullying policy, which shall be based upon a model prepared by the Department of Justice and public comment upon that model. Each school district and charter school shall adopt the Department's uniform cyberbullying policy within 90 days of the policy becoming final.

(2) Distribution of the Comprehensive School Discipline Improvement Program funds to a school district and charter school provided in the General Appropriations Act starting in fiscal year 2009 and thereafter is contingent upon Department of Education approval of the school district's or charter school's bullying prevention policy.

(3) To the extent that funding is available, the Department of Education shall provide for an award system for schools with exemplary programs based on criteria promulgated by the Department.

(4) The Department of Education shall conduct random audits of schools to insure compliance with paragraphs (b)(2)i. and (b)(2)k. of this section. The Department shall report the results of these audits annually in the report required by paragraph (c)(4) of this section.
(e) Immunity. A school district or charter school employee, school district or charter school volunteer, or student is individually immune from a cause of action for damages arising from reporting bullying in good faith and to the appropriate person using the procedures specified in the school district's or charter school's bullying prevention policy, but there is no such immunity if the act of reporting constituted gross negligence or reckless, willful, or intentional conduct.

(f) Other defenses.

(1) The physical location or time of access of a technology-related incident is not a valid defense in any disciplinary action by the school district or charter school initiated under this section provided there is sufficient school nexus.

(2) This section does not apply to any person who uses data or computer software that is accessed through a computer, computer system, computer network, or other electronic technology when acting within the scope of that person's lawful employment or investigation of a violation of this section in accordance with school district or charter school policy.

(g) Relationship to reporting requirements. An incident may meet the definition of bullying and also the definition of a particular crime under state or federal law. Nothing in this section or in the policies promulgated as a result of this section prevents school officials from fulfilling all of the reporting requirements of § 4112 of this title or from reporting probable crimes that occur on school property or at a school function which are not required to be reported under § 4112 of this title. Nothing in this section abrogates the reporting requirements for child abuse or sexual abuse set forth in Chapter 9 of Title 16 or any other reporting requirement under state or federal law.

(h) [Repealed.]

This chapter shall be known and may be cited as the "Anti-Hazing Law."

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Hazing" means any action or situation which recklessly or intentionally endangers the mental or physical health or safety of a student or which willfully destroys or removes public or private property for the purpose of initiation or admission into or affiliation with, or as a condition for continued membership in, any organization operating under the sanction of or recognized as an organization by an institution of higher learning. The term shall include, but not be limited to, any brutality of a physical nature, such as whipping, beating, branding, forced calisthenics, exposure to the elements, forced consumption of any food, liquor, drug or other substance, or any other forced physical activity which could adversely affect the physical health and safety of the individual, and shall include any activity which would subject the individual to extreme mental stress, such as sleep deprivation, forced exclusion from social contact, forced conduct which could result in embarrassment, or any other forced activity which could adversely affect the mental health or dignity of the individual, or any willful destruction or removal of public or private property. For purposes of this definition, any activity as described in this definition upon which the admission or initiation into or affiliation with or continued membership in an organization is directly or indirectly conditioned shall be presumed to be "forced" activity, the willingness of an individual to participate in such activity notwithstanding.

Any person who causes or participates in hazing commits a class B misdemeanor.
14 Del.C. §9304. Enforcement by institution.

(a) Anti-hazing policy. Each institution shall adopt a written anti-hazing policy and, pursuant to that policy, shall adopt rules prohibiting students or other persons associated with any organization operating under the sanction of or recognized as an organization by the institution from engaging in any activity which can be described as hazing.

(b) Enforcement and penalties.

(1) Each institution shall provide a program for the enforcement of such rules and shall adopt appropriate penalties for violations of such rules to be administered by the person or agency at the institution responsible for the sanctioning or recognition of such organizations.

(2) Such penalties may include the imposition of fines, the withholding of diplomas or transcripts pending compliance with the rules or pending payment of fines and the imposition of probation, suspension or dismissal.

(3) In the case of an organization which authorizes hazing in blatant disregard of such rules, penalties may also include decision of permission for that organization to operate on campus property or to otherwise operate under the sanction or recognition of the institution.

(4) All penalties imposed under the authority of this section shall be in addition to any penalty imposed for violation of paragraph (3) of this subsection or any of the criminal laws of this State or for violation of any other institutional rule to which the violator may be subject.

(5) Rules adopted pursuant hereto shall apply to acts conducted on or off campus whenever such acts are deemed to constitute hazing.

REGULATIONS


1.0. Cyberbullying Forbidden

In addition to the policy prohibiting bullying put in place by school districts and charter schools pursuant to 14 Del.C. §4112D(b)(2), each school district and charter school shall also prohibit cyberbullying (as defined herein) by students directed at other students. Incidents of cyberbullying shall be treated by each school district and charter school in the same manner as incidents of bullying, and notice of each school district's and charter school's policy against cyberbullying shall be provided to students, staff, and faculty in the same manner as notice of the school district's and charter school's policy against bullying.

2.0. Definition of Cyberbullying

2.1. Cyberbullying means the use of uninvited and unwelcome electronic communication directed at an identifiable student or group of students, through means other than face-to-face interaction, which (1) interferes with a student's physical well-being; or (2) is threatening or intimidating; or (3) is so severe, persistent, or pervasive that it is reasonably likely to limit a student's ability to participate in or benefit from the educational programs of the school district or charter school. Communication shall be considered to be directed at an identifiable student or group of students if it is sent directly to that student or group, or posted in a medium that the speaker knows is likely to be available to a broad audience within the school community.

2.2. Whether speech constitutes cyberbullying will be determined from the standpoint of a reasonable student of the same grade and other circumstances as the victim.

2.3. The place of origin of speech otherwise constituting cyberbullying is not material to whether it is considered cyberbullying under this policy, nor is the use of school district or charter school materials.

2.4. Upon implementation of this policy, and again at the beginning of each academic year, each school district and charter school shall inform students in writing of mediums where posting of speech will be
presumed to be available to a broad audience within the school community, regardless of privacy settings or other limitations on those postings. From implementation of this policy through the end of the 2013-2014 school year, postings on Facebook, Twitter, MySpace, YouTube, and Pinterest shall be included in each district's and charter school's list of mediums where posting of speech will be presumed to be available to a broad audience within the school community, regardless of privacy settings or other limitations on those postings.

2.5. Nothing in this policy shall limit in any way a school district's or charter school's ability to regulate student conduct, including bullying, in any manner provided for by existing law, regulation, or policy.


9.0. Pupil Conduct on School Buses

9.1. Districts shall have a policy concerning the behavior of pupils on school buses that shall, at a minimum, contain the following rules which if not followed may result in the suspension or denial of bus riding privileges:

9.1.20. Other forms of misconduct that shall not be tolerated on the bus and at bus stops are acts such as, but not limited to, bullying, indecent exposure, obscene gestures, spitting, and other actions that may be addressed in the District or school code of conduct.

Other special infractions or conditions

LAWS

14 Del.C. §4120. School dress codes and uniforms.

(a) The school board of each public school district shall have authority to establish and enforce a dress code program, which may include school uniforms, for students within the district to promote an orderly, disciplined school environment and to encourage uniformity of student dress. Any school board exercising its authority under this section shall promulgate rules and regulations governing the establishment and enforcement of its dress code program.

(b) In establishing a dress code that adopts school uniforms, the rules and regulations of the school board shall ensure that any uniform required is available at an affordable price, and shall include provision to assist economically disadvantaged students in obtaining school uniforms.


(a) Teen dating violence and sexual assault training program. The Delaware Domestic Violence Coordinating Council shall identify and maintain a teen dating violence and sexual assault training program for school administrators, school nurses, and school counselors serving 1 or more of the grades in grades 7 through 12.

(b) Teen dating violence and sexual assault policies. Each school district and charter school serving 1 or more of the grades in grades 7 through 12 shall establish a policy for responding to teen dating violence and sexual assault that includes, at a minimum, all of the following components:

(1) Definitions of teen dating violence and sexual assault, the behaviors which constitute each, and the consequences for committing offenses.

(2) Guidelines on mandatory reporting and confidentiality as required by the law of this State and school district or charter school policy.

(3) A protocol for responding to incidents of teen dating violence and sexual assault which includes all of the following:
a. Procedures regarding initial response.
b. Procedures for reporting incidents of teen dating violence and sexual assault when a report is required.
c. Procedures for the documentation of incidents.
d. Procedures for working with victims.
e. Procedures for working with perpetrators.

(c) [Repealed.]

(d) Each school district and charter school shall ensure existing health standard programming related to comprehensive healthy relationships, based on the health standards adopted by the Department of Education as approved by the State Board of Education, is provided in health education programs or related classes. The Domestic Violence Coordinating Council shall have the authority to review and advise on the implementation of school district policies and charter school policies related to teen dating violence and sexual assault.

(e) Dissemination of policy and accountability.

(1) Each school district and charter school shall adopt a policy consistent with subsection (b) of this section. Following review by the Domestic Violence Coordinating Council, each school district and charter school shall submit a copy to the Department of Education by January 5, 2015, or by January 5 of a newly approved charter school's first year of operation.

(2) Each school district and charter school shall ensure that its policy adopted under subsection (b) of this section appears in the student and staff handbook. If no handbook is available, or if it is not practical to reprint new handbooks, each school district and charter school shall ensure that a copy of the policy is distributed annually to all students, parents, faculty, and staff.

(3) The Department of Education shall prepare an annual report, which shall include a summary of reported incidences of teen dating violence and sexual assault. The Department shall submit the report to the Domestic Violence Coordinating Council by August 1 of each year.

(f) Immunity. A school district or charter school employee, school district or charter school volunteer, or student is individually immune from a cause of action for damages arising from reporting teen dating violence or sexual assault in good faith and to the appropriate person using the procedures specified in the school district's or charter school's teen dating violence and sexual assault policy, but there is no such immunity if the act of reporting constituted gross negligence or reckless, willful, or intentional conduct.

(g) Relationship to reporting requirements. Nothing in this section or in the policies promulgated as a result of this section prevents school officials from fulfilling all of the reporting requirements of § 4112 of this title or from reporting probable crimes that occur on school property or at a school function which are not required to be reported under that section. For purposes of this subsection, "school property" and "school function" mean as defined in § 4112 of this title. Nothing in this section abrogates the reporting requirement for child abuse or sexual abuse set forth in Chapter 9 of Title 16 or any other reporting requirement under state or federal law.

(h), (i) [Repealed.]

(j) Short title. This section shall be known and may be cited as the "Liane Sorenson Act."

**REGULATIONS**


9.0. Pupil Conduct on School Buses
9.1. Districts shall have a policy concerning the behavior of pupils on school buses that shall, at a minimum, contain the following rules which if not followed may result in the suspension or denial of bus riding privileges:

9.1.1. Obey the driver promptly, and be courteous to the driver and to fellow pupils. Pupils are to conduct themselves while on the bus in such a way that they shall not distract the driver from driving tasks.


9.1.15. Do not open the bus windows without permission from the driver, extend any body part out of the windows or call out to passers-by.

9.1.16. Do not leave the bus without the driver’s consent, except on arrival at their regular bus stop or at school.

9.1.17. Keep the bus clean, sanitary, and orderly and do not damage or abuse the equipment.

9.1.18. Do not smoke, use profanity, eat or drink on the bus.

9.1.19. Do not throw articles of any kind inside, around the bus or out of the bus windows.

9.1.20. Other forms of misconduct that shall not be tolerated on the bus and at bus stops are acts such as, but not limited to, bullying, indecent exposure, obscene gestures, spitting, and other actions that may be addressed in the District or school code of conduct.
Prevention and Behavioral Interventions (Non-Punitive)

Prevention

LAWS

14 Del.C. §1601. Purpose.
It is the purpose of this chapter to provide for the establishment of a statewide comprehensive program to improve student discipline in the public elementary and secondary schools of the State. The program shall provide for the treatment of pupils who are exhibiting discipline problems and for the establishment of services to school pupils which will reduce the rate and severity of discipline problems in the future. The program shall operate under the supervision and direction of the Department of Education.

14 Del.C. §1605A. Prevention component.
The Family Services Cabinet Council (Council), with the Department of Education and the Department of Services for Children, Youth and Their Families acting as lead agencies, shall administer a program to offer prevention-related student support services (prevention services) to students to prevent them from becoming discipline problems and from failing academically in our schools.

(a) The Department of Education with approval of the State Board of Education shall establish and implement statewide alcohol/substance abuse educational programs to be provided in each grade, kindergarten through grade 12, in each public school in this State. The programs required by this section shall consist of no fewer than 10 hours per school year in grades kindergarten through 4 and 15 hours per school year in grades 5 through 12. Each program shall be taught by appropriately trained certified teachers and the instruction shall be comprehensive, age-appropriate and sequential in nature.
(b) Any in-service training required by this section shall be provided within the contracted school year as provided in § 1305 of this title.

For purposes of this subchapter:
(1) “Bullying” means any intentional written, electronic, verbal, or physical act against another student, a school district or charter school volunteer, or a school district or charter school employee that a reasonable person under the circumstances should know will have any of the following effects:
   a. Place a student, school district or charter school volunteer, or school district or charter school employee in reasonable fear of substantial harm to the student’s, volunteer’s, or employee’s emotional or physical well-being or substantial damages to the student’s, volunteer’s, or employee’s property.
   b. Create a hostile, threatening, humiliating, or abusive educational environment due to the pervasiveness or persistence of actions or due to a power differential between the bully and the target.
   c. Interfere with a student having a safe school environment that is necessary to facilitate educational performance, opportunities, or benefits.
   d. Perpetuate bullying by inciting, soliciting, or coercing an individual or group to demean, dehumanize, embarrass, or cause emotional, psychological, or physical harm to another student, school district or charter school volunteer, or school district or charter school employee.
(2) “Charter school” means a public school established under Chapter 5 of this title.

(3) “Child abuse” means causing or inflicting any of the following on a child:
   a. Sexual abuse.
   b. Serious physical injury or death, or physical injury through unjustified force not permitted under § 468 of Title 11. For purposes of this paragraph (3)b., “serious physical injury” and “physical injury” mean as defined in § 222 of Title 11.
   c. Emotional abuse.
   d. Torture.
   e. Exploitation.
   f. Maltreatment or mistreatment.

(4) “Child sexual abuse”, “sexual abuse”, or “sexually abused” means the commission of any act that is listed in the definition of sexual offense in § 761 of Title 11.

(5) “Consent” means the unambiguous, voluntary, and freely given agreement by all participants in each physical act in the course of sexual activity, including respect for personal boundaries. Consent does not include any of the following:
   a. The lack of verbal or physical resistance or submission resulting from the use of force, threat of force, or placing another individual in fear.
   b. A current or previous dating, social, or sexual relationship.

(6) “Criminal youth gang” means as defined in § 617(a) of Title 11.

(7) “Parent” means a natural parent, an adoptive parent, any person legally charged with the care or custody of a student under 18 years of age, or any person who has assumed responsibility for the care of a student under 18 years of age including any person acting as a caregiver pursuant to the provisions of § 202(f) of this title.

(8) “Personal body safety” means understanding the difference between appropriate and inappropriate touching and how to communicate inappropriate behavior to a trusted adult.

(9) “School district” means a clearly defined geographic subdivision of the State organized for the purpose of administering public education in that area and includes a district specifically created to administer a system of vocational or technical education.

(10) “School district and charter school employee,” “school district or charter school employee,” or “employee” means all individuals, including teachers, school administrators, school support personnel, instructional aides, nurses, school counselors, coaches, custodial staff, and nutrition staff, hired by a school district or charter school or a program established under Chapter 16 of this title, who provide services to students on a regular, ongoing basis. “School district and charter school employee,” “school district or charter school employee,” or “employee” does not include contractors or subcontractors, such as bus drivers or security guards; substitute employees; and individuals hired by or subcontracted by other state agencies to work on school property.

(11) “Sexual assault” means any unwanted sexual behavior committed by a perpetrator who is a stranger to the victim or by a perpetrator who is known by the victim or related to the victim by blood or marriage. “Sexual assault” includes the following behaviors: sexual harassment, as defined in § 763 of Title 11; sexual contact, as defined in § 761 Title 11; sexual intercourse, as defined in § 761 of Title 11; sexual penetration, as defined in § 761 of Title 11; and sexual abuse.

(12) “Teen dating violence” means assaultive, threatening, or controlling behavior, including stalking as defined in § 1312 of Title 11, that one person uses against another person in order to gain or maintain power or control in a current or past relationship and can occur in both heterosexual and same sex relationships and in serious or casual relationships.
**14 Del.C. §4162. Child safety awareness, prevention, and other nonacademic trainings.**

(a) Each school district and charter school shall require its employees to receive 12.5 hours of training every 3 years consisting of all of the following:

1. Three hours of a child abuse and child safety awareness, prevention, detection, and reporting training program established under § 4163(b)(1) of this title.
2. Three hours of a school bullying prevention and criminal youth gang detection training program established under § 4164(a) of this title.
3. Four and one-half hours of a suicide prevention training program established under § 4165(a) of this title, with each school district and charter school employee receiving 90 minutes of such training each year.
4. Two hours of additional, nonacademic training programs that are evidence-based, whenever available, and are related to a training subject required by this subchapter, as selected by the school district or charter school.

(b) Each school district and charter school shall require a school administrator, school nurse, or school counselor serving 1 or more of the grades in grades 7 through 12 to receive 2 hours of a teen dating violence and sexual assault training program established under § 4166(a) of this title every 3 years. This training may be included in paragraph (a)(4) of this section.

(c) Notwithstanding subsection (a) of this section, a school district or charter school shall require all of the following:

1. That a new school district or charter school employee receive 1 hour of a child abuse detection and reporting training program established under § 4163(b)(1) of this title within 30 days of employment with the school district or charter school, unless the new school district or charter school employee received such training within the last year.
2. That a new school administrator, school nurse, or school counselor serving 1 or more of the grades in grades 7 through 12 in a school district or charter school receive 2 hours of a teen dating violence and sexual assault training program established under § 4166(a) of this title within 1 year of employment in such position.

(d) A school district or charter school shall provide any in-service training required under this section within the contracted school year as provided in § 1305(e) of this title.

(e) A school district or charter school may provide the trainings required under this section to any of its volunteers or contractors.

**14 Del.C. §4163. Child abuse and child safety awareness, prevention, detection, and reporting.**

(a) [Repealed.]

(b) Educational programming. The Child Protection Accountability Commission and the Division of Family Services of the Department of Services for Children, Youth, and Their Families shall identify and maintain educational programming to be used by each school district and charter school for informing school district and charter school employees, students, and parents about personal body safety and child abuse and about how to detect and report child abuse. The educational programming must include all of the following:

1. Training and education for school district and charter school employees that is evidence-based, whenever available, in order to raise awareness of issues regarding personal body safety, child abuse, and child safety. Such training and education must include the warning signs indicating that a child may be a victim of sexual abuse and other forms of child abuse, techniques for responding when child abuse is suspected or disclosed, and the employee's mandatory reporting requirement under § 903 of Title 16.
(2) Evidence-based age-appropriate instruction for students enrolled in grades pre-kindergarten through 6 that is related to personal body safety and child sexual abuse. Such instruction shall include information on the difference between appropriate and inappropriate conduct and the actions that a child may take to be protected from sexual abuse. Such instruction shall be designed to build on skills learned the previous year.

(3) Information for parents of students enrolled in grades pre-kindergarten through 6 on all of the following:
   a. Warning signs of a child who is being sexually abused or suffering from other forms of child abuse.
   b. Effective, age-appropriate methods for discussing personal body safety and sexual abuse and other forms of child abuse with a child.
   c. Resources for reporting child abuse.
   d. Counseling and other resources available to a child who has been the victim of child abuse.

(c) Role of the Department of Education. The Department of Education shall provide technical expertise to assist the Child Protection Accountability Commission and the Division of Family Services of the Department of Services for Children, Youth, and Their Families in their identification of educational programming under subsection (b) of this section and the Department of Education shall make a list of the approved educational programing available to each school district and charter school.

(d) Implementation of training program. Each school district and charter school shall implement the educational programming provided under subsection (b) of this section as follows:

   (1) The educational programing provided under paragraph (b)(1) of this section must be provided to all of its employees as required by § 4162 of this title.

   (2) The educational programing provided under paragraph (b)(2) of this section must be provided to all students enrolled in grades pre-kindergarten through 6 through health education programs or related classes.

   (3) The educational programing provided under paragraph (b)(3) of this section must be provided to parents of students enrolled in grades pre-kindergarten through 6 through written materials, available online through the school district's or charter school's website or in hard copy upon a request by parents, on an annual basis and may be provided through live presentations.

(e) Notification of parents. Prior to providing any instruction under paragraph (d)(2) of this section, each school district and charter school shall inform the parent of any student enrolled in grades pre-kindergarten through 6 in writing that the parent may examine and review the educational materials before the materials are taught.

(f) Accountability.

   (1) Each school district and charter school shall designate an individual responsible for overseeing the implementation of the educational programing provided under subsection (b) of this section. Each school district and charter school shall provide the name and contact information for the individual designated under this subsection to the Department of Education no later than November 15 of each year.

   (2) Each individual designated under paragraph (f)(1) of this section shall report to the Department of Education no later than November 15 of each year how the educational programming has been implemented by that individual's school district or charter school.

   (3) The Department of Education shall submit a written report to the Governor, the members of the General Assembly, and the Director of the Division of Research no later than January 15 of each year. The report must include the educational programing provided under subsection (b) of this section and
how the curriculum has been implemented by each school district and charter school under subsection (d) of this section.

(g)(1) Each school in a school district and each charter school shall post, in a conspicuous location where notices to students are customarily posted, the number for the toll-free telephone report line for child abuse and neglect as established under § 905 of Title 16. The posting must be made in English and Spanish and must be made in a format and language that is clear, simple, and understandable to students.

(2) There is no private right of action for a violation of this subsection.

(h) Short title. This section shall be known and may be cited as "Erin's Law".

14 Del.C. §4164. School bullying awareness and prevention; criminal youth gang detection.

(b) Prohibition of bullying.

(2) Each school district and charter school shall establish a policy which, at a minimum, includes the following components:

   c. Direction to develop a school-wide bullying prevention program.

   d. A requirement that each school establish a site-based committee that is responsible for coordinating the school's bully prevention program including the design, approval, and monitoring of the program. A majority of the members of the site-based committee must be members of the school professional staff, of which a majority must be instructional staff. The committee also shall contain representatives of the administrative staff, support staff, student body (for a school enrolling students in grades 7 through 12), parents, and staff from the before- or after-school program or programs. These representatives shall be chosen by members of each respective group, except that the school principal shall appoint the representatives of the nonemployee groups. The committee shall operate on a 1-person, 1-vote principle. If a site-based school discipline committee has been established under § 1605(7)a. and b. of this title, that committee shall vote whether to accept the responsibilities of this paragraph (b)(2)d.

   n. A requirement that the school bullying prevention program be implemented throughout the year, and integrated with the school's discipline policies and § 4112 of this title.

14 Del.C. §4165. Suicide awareness and prevention.

(a) Suicide prevention training program. The Department of Health and Social Services, the Department of Services for Children, Youth and their Families, and the Department of Education shall identify and maintain a suicide prevention training program for school district and charter school employees that is evidence-based, whenever available.

(b) Suicide prevention policy. Each school district and charter school shall establish a policy which shall require, at a minimum, all of the following:

   (1) Recognition of the serious problem of youth suicide.
   (2) The development of a suicide prevention program.
   (3) That each school within a school district and each charter school establish a committee that is responsible for coordinating the suicide prevention program within that school.
   (4) A statement prohibiting retaliation against a school district or charter school employee, a school district or charter school volunteer, or student for reporting the warning signs of suicide.
   (5) That a procedure be established for the confidential and anonymous reporting of the warning signs of suicide.
(6) That a procedure be established for communication between school staff members and medical professionals who are involved in treating students for suicide issues.

(c) Accountability. Each school district and charter school shall adopt the policy required by subsection (b) of this section and shall submit a copy to the Department of Education by September 1, 2016, and by September 1 of a newly approved charter school's first year of operation. Each school district and charter school shall provide any changes to the policy to the Department within 60 calendar days.

(d) Dissemination of policy. Each school district and charter school shall ensure that the policy adopted under this section appears in the student and staff handbook and on its website.

(e) Immunity. A school district or charter school employee, school district or charter school volunteer, or student is individually immune from a cause of action for damages arising from reporting warning signs of suicide to the appropriate person using the procedures specified in the school district's or charter school's suicide prevention policy, but there is no such immunity if the act of reporting constituted gross negligence or reckless, willful, or intentional conduct.

REGULATIONS


1.0. Program Requirements

1.1. Each school district and charter school shall have a sequential, skill-based K to 12 Comprehensive Health Education Program based on the Delaware Health Education Standards that establishes a foundation of understanding the relationship between personal behavior and health and shall include at a minimum the following:

1.1.3. The use of the state content standards for health education for grades K to 12 to address the core concepts: tobacco, alcohol and other drugs, injury prevention and safety, nutrition and physical activity, family life and sexuality, personal health and wellness, mental health and community and environmental health with minimum hours of instruction as follows:

1.1.3.1. In grades K to 4, a minimum of thirty (30) hours in each grade of comprehensive health education and family life education of which ten (10) hours, in each grade, must address drug and alcohol education.

1.1.3.2. In grades 5 and 6, a minimum of thirty five (35) hours in each grade of comprehensive health education and family life education of which fifteen (15) hours, in each grade, must address drug and alcohol education.

1.1.3.3. In grades 7 and 8, separate from other subject areas, a minimum of sixty (60) hours of comprehensive health education and family life education of which fifteen (15) hours, in each grade, must address drug and alcohol education. If all of the 60 hours are provided in one year at grade 7 or 8, an additional fifteen hours of drug and alcohol education must be provided in the other grade.

1.1.3.4. In grades 9 to 12, one half (1/2) credit of comprehensive health education is required for graduation of which fifteen (15) hours of this 1/2 credit course must address drug and alcohol education. In addition, no less than two (2) hours of this 1/2 credit course shall include a cardiopulmonary resuscitation (CPR) instructional program which uses the most current evidence-based emergency cardiovascular care guidelines, and incorporates psychomotor skills learning into the instruction, use of an Automated External Defibrillator (AED) as well as a component on the life saving and life enhancing effects of organ and tissue donation. This 1/2 credit course may be provided in the 9th, 10th, 11th or 12th grade. In each of the remaining three grades, fifteen (15) hours of drug and alcohol education must be provided for all students. CPR instruction, use of an AED and organ/tissue donation awareness shall be integrated into each high school Health Education Program no later than the 2015-2016 school year.
1.1.7. Inclusion of an evidence-based tobacco, alcohol, drug and interpersonal violence prevention program.

**Behavioral interventions and student support services**

**LAWS**

**14 Del.C. §2729. Failure to send; affirmative defense; penalties.**

(g) The court may also order as conditions of release prior to judgment or as conditions of sentence upon conviction such conditions as the court considers necessary to obtain compliance with school attendance requirements. These conditions include but are not limited to the following:

1. Verifying the child's attendance with the school;
2. Meeting with school officials;
3. Taking the child to school;
4. Taking the child to the bus stop;
5. Attending school with the child;
6. Undergoing medical, psychological or psychiatric evaluations and following the evaluator's recommendations;
7. Undergoing an evaluation for drug, alcohol, or other substance abuse and following the evaluator's recommendations; and
8. Taking the child for medical, psychological or psychiatric evaluation or for drug, alcohol or other substance abuse evaluation and following the evaluator's recommendations.

**14 Del.C. §2730. Failure to attend; penalties.**

(c) If the Court determines the student has violated § 2702 of this title, it shall adjudicate the student a truant and may order the following remedial dispositions:

1. Community service;
2. Counseling;
3. Substance abuse evaluation and treatment;
4. Mental health evaluation and treatment;
5. A curfew with hours set by the court;
6, 7 [Repealed.]
8. Prohibition of the student's participation in or attendance at any extra-curricular activity or social event which is an official school event or is sponsored by the school or held on school property;
9. A recommendation that the student enroll in the school in alternative educational and related services in accordance with Chapter 16 of this title; and
10. Such other action as is permitted by statute or by court rule.

**REGULATIONS**

**14 DE Admin. Code §609. District and school based intervention services.**

1.0. Provision of Services

Each school district shall provide services for students whose behavior disrupts the classroom setting and creates distractions that impede the learning process, but who are not eligible for placement in an
alternative program pursuant to 14 DE Admin. Code 611. School districts may offer such services based on the identified needs of the district and its individual schools, subject to the requirements of this regulation.

2.0. Application for Funding

2.1. Any school district requesting an incentive or supplemental grant to provide intervention services shall apply for such funds using the LEA Consolidated Application process provided by the Department of Education.

2.2. Any incentive or supplemental grant approved as part of the LEA Consolidated Application process shall be in the amount appropriated for that purpose by law.

3.0. Student Population to be Served

Services funded under this regulation may be provided to any student in grades K to 12, subject to the terms of the district’s approved LEA Consolidated Application. Notwithstanding any of the provisions to the contrary, IDEA-identified students with disabilities shall be served pursuant to the provisions in 14 DE Admin. Code 925 and students with disabilities identified under Section 504 of the Rehabilitation Act shall be served in conformity with 34 C.F.R. Part 104.

4.0. School Based Intervention Programs

4.1. If a district, through its LEA Consolidated Application, provides a School Based Intervention Program as part of the services provided to disruptive students, such Program shall meet the following requirements:

4.2. A School Based Intervention Program shall include both short term and long term intervention strategies. Such strategies may include character education, short or long term counseling to improve behavior which impacts educational performance, and methods to identify the need to refer students for additional services either within the district or to other agencies. The Program shall also include support services to provide a smooth transition for students who are returning to their regular school from a Consortium Discipline Alternative Program or from a Department of Services to Children, Youth and their Families (DSCYF) setting.

4.3. The decision to place a student in the School Based Intervention Program shall be made by the student’s Intervention Team. The Intervention Team shall include the building principal or assistant principal, school nurse, counselor, social worker (if the student receives social work services), and a teacher familiar with the student. Other individuals, including parents, guardians or Relative Caregivers, may be invited as appropriate.

4.4. When placing an IDEA-identified student with a disability in a School Based Intervention Program, the Intervention Team and a student’s IEP team may be the same as long as the membership of the Intervention Team also meets the requirements of 14 DE Admin. Code 925. When placing a student with a disability identified under Section 504 of the Rehabilitation Act, the Intervention Team may be the same as a multidisciplinary team authorized to make placement decisions as long the Intervention Team also meets the requirements of 34 C.F.R. 104.35

5.0. Evaluation of Services

Any local school district receiving a grant pursuant to this regulation shall submit an annual evaluation report on the effectiveness of its District and School Based Intervention Services. Such report shall be submitted as part of the LEA Consolidated Application process and shall conform to content and format standards.

14 DE Admin. Code §612. Possession, use or distribution of drugs and alcohol.

4.0. Requirement of Each School District and Charter School to have a Policy
4.1. Each school district and charter school shall have a policy on file and update it periodically. The policy shall include, at a minimum, the following:

4.1.6. A program of assistance for students with counseling and referral to services as needed.


7.0. Assignment to an Alternative Program

7.1. Procedures for Student Referral

7.1.1. Criteria for student referral to an Alternative Placement.

7.1.1.4. A Principal may refer a student for Alternative Placement in conjunction with chronic disruptive behaviors which result in Repeated Violations of the Student Code of Conduct after all school-based best practice interventions have been put into place for said student. This may include, but is not limited to, counseling services, the development and implementation of a behavior support or modification plan, mentoring, referral to mediation, and participation in an available In-School Alternative Program.

Professional development

LAWS

14 Del.C. §4112F. Limitations on use of seclusion and restraint.

(c) Department of Education Role; Regulations.

(1) The Department of Education shall promulgate regulations implementing this section. Such regulations shall include, but not be limited to, the following:

d. Recommended or required training of public school personnel in implementing this section.


(a) The Department of Education with approval of the State Board of Education shall establish and implement statewide alcohol/substance abuse educational programs to be provided in each grade, kindergarten through grade 12, in each public school in this State. The programs required by this section shall consist of no fewer than 10 hours per school year in grades kindergarten through 4 and 15 hours per school year in grades 5 through 12. Each program shall be taught by appropriately trained certified teachers and the instruction shall be comprehensive, age-appropriate and sequential in nature.

(b) Any in-service training required by this section shall be provided within the contracted school year as provided in § 1305 of this title.


For purposes of this subchapter:

(1) “Bullying” means any intentional written, electronic, verbal, or physical act against another student, a school district or charter school volunteer, or a school district or charter school employee that a reasonable person under the circumstances should know will have any of the following effects:

a. Place a student, school district or charter school volunteer, or school district or charter school employee in reasonable fear of substantial harm to the student’s, volunteer’s, or employee’s emotional or physical well-being or substantial damages to the student’s, volunteer’s, or employee’s property.
b. Create a hostile, threatening, humiliating, or abusive educational environment due to the pervasiveness or persistence of actions or due to a power differential between the bully and the target.

c. Interfere with a student having a safe school environment that is necessary to facilitate educational performance, opportunities, or benefits.

d. Perpetuate bullying by inciting, soliciting, or coercing an individual or group to demean, dehumanize, embarrass, or cause emotional, psychological, or physical harm to another student, school district or charter school volunteer, or school district or charter school employee.

(2) "Charter school" means a public school established under Chapter 5 of this title.

(3) "Child abuse" means causing or inflicting any of the following on a child:

a. Sexual abuse.

b. Serious physical injury or death, or physical injury through unjustified force not permitted under § 468 of Title 11. For purposes of this paragraph (3)b., "serious physical injury" and "physical injury" mean as defined in § 222 of Title 11.

c. Emotional abuse.

d. Torture.

e. Exploitation.

f. Maltreatment or mistreatment.

(4) "Child sexual abuse", "sexual abuse", or "sexually abused" means the commission of any act that is listed in the definition of sexual offense in § 761 of Title 11.

(5) "Consent" means the unambiguous, voluntary, and freely given agreement by all participants in each physical act in the course of sexual activity, including respect for personal boundaries. Consent does not include any of the following:

a. The lack of verbal or physical resistance or submission resulting from the use of force, threat of force, or placing another individual in fear.

b. A current or previous dating, social, or sexual relationship.

(6) "Criminal youth gang" means as defined in § 617(a) of Title 11.

(7) "Parent" means a natural parent, an adoptive parent, any person legally charged with the care or custody of a student under 18 years of age, or any person who has assumed responsibility for the care of a student under 18 years of age including any person acting as a caregiver pursuant to the provisions of § 202(f) of this title.

(8) "Personal body safety" means understanding the difference between appropriate and inappropriate touching and how to communicate inappropriate behavior to a trusted adult.

(9) "School district" means a clearly defined geographic subdivision of the State organized for the purpose of administering public education in that area and includes a district specifically created to administer a system of vocational or technical education.

(10) "School district and charter school employee," "school district or charter school employee," or "employee" means all individuals, including teachers, school administrators, school support personnel, instructional aides, nurses, school counselors, coaches, custodial staff, and nutrition staff, hired by a school district or charter school or a program established under Chapter 16 of this title, who provide services to students on a regular, ongoing basis. "School district and charter school employee," "school district or charter school employee," or "employee" does not include contractors or subcontractors, such as bus drivers or security guards; substitute employees; and employees hired by or subcontracted by other state agencies to work on school property.
(11) “Sexual assault” means any unwanted sexual behavior committed by a perpetrator who is a stranger to the victim or by a perpetrator who is known by the victim or related to the victim by blood or marriage. “Sexual assault” includes the following behaviors: sexual harassment, as defined in § 763 of Title 11; sexual contact, as defined in § 761 Title 11; sexual intercourse, as defined in § 761 of Title 11; sexual penetration, as defined in § 761 of Title 11; and sexual abuse.

(12) “Teen dating violence” means assaultive, threatening, or controlling behavior, including stalking as defined in § 1312 of Title 11, that one person uses against another person in order to gain or maintain power or control in a current or past relationship and can occur in both heterosexual and same sex relationships and in serious or casual relationships.

(a) Each school district and charter school shall require its employees to receive 12.5 hours of training every 3 years consisting of all of the following:

(1) Three hours of a child abuse and child safety awareness, prevention, detection, and reporting training program established under § 4163(b)(1) of this title.

(2) Three hours of a school bullying prevention and criminal youth gang detection training program established under § 4164(a) of this title.

(3) Four and one-half hours of a suicide prevention training program established under § 4165(a) of this title, with each school district and charter school employee receiving 90 minutes of such training each year.

(4) Two hours of additional, nonacademic training programs that are evidence-based, whenever available, and are related to a training subject required by this subchapter, as selected by the school district or charter school.

(b) Each school district and charter school shall require a school administrator, school nurse, or school counselor serving 1 or more of the grades in grades 7 through 12 to receive 2 hours of a teen dating violence and sexual assault training program established under § 4166(a) of this title every 3 years. This training may be included in paragraph (a)(4) of this section.

(c) Notwithstanding subsection (a) of this section, a school district or charter school shall require all of the following:

(1) That a new school district or charter school employee receive 1 hour of a child abuse detection and reporting training program established under § 4163(b)(1) of this title within 30 days of employment with the school district or charter school, unless the new school district or charter school employee received such training within the last year.

(2) That a new school administrator, school nurse, or school counselor serving 1 or more of the grades in grades 7 through 12 in a school district or charter school receive 2 hours of a teen dating violence and sexual assault training program established under § 4166(a) of this title within 1 year of employment in such position.

(d) A school district or charter school shall provide any in-service training required under this section within the contracted school year as provided in § 1305(e) of this title.

(e) A school district or charter school may provide the trainings required under this section to any of its volunteers or contractors.

(a) [Repealed.]

(b) Educational programming. The Child Protection Accountability Commission and the Division of Family Services of the Department of Services for Children, Youth, and Their Families shall identify and maintain
educational programming to be used by each school district and charter school for informing school
district and charter school employees, students, and parents about personal body safety and child abuse
and about how to detect and report child abuse. The educational programming must include all of the
following:

(1) Training and education for school district and charter school employees that is evidence-based,
whenever available, in order to raise awareness of issues regarding personal body safety, child abuse,
and child safety. Such training and education must include the warning signs indicating that a child may
be a victim of sexual abuse and other forms of child abuse, techniques for responding when child abuse
is suspected or disclosed, and the employee's mandatory reporting requirement under § 903 of Title 16.

(2) Evidence-based age-appropriate instruction for students enrolled in grades pre-kindergarten through
6 that is related to personal body safety and child sexual abuse. Such instruction shall include
information on the difference between appropriate and inappropriate conduct and the actions that a
child may take to be protected from sexual abuse. Such instruction shall be designed to build on skills
learned the previous year.

(3) Information for parents of students enrolled in grades pre-kindergarten through 6 on all of the
following:

   a. Warning signs of a child who is being sexually abused or suffering from other forms of child abuse.

   b. Effective, age-appropriate methods for discussing personal body safety and sexual abuse and
other forms of child abuse with a child.

   c. Resources for reporting child abuse.

   d. Counseling and other resources available to a child who has been the victim of child abuse.

(c) Role of the Department of Education. The Department of Education shall provide technical expertise
to assist the Child Protection Accountability Commission and the Division of Family Services of the
Department of Services for Children, Youth, and Their Families in their identification of educational
programming under subsection (b) of this section and the Department of Education shall make a list of
the approved educational programing available to each school district and charter school.

(d) Implementation of training program. Each school district and charter school shall implement the
educational programming provided under subsection (b) of this section as follows:

   (1) The educational programing provided under paragraph (b)(1) of this section must be provided to all
of its employees as required by § 4162 of this title.

   (2) The educational programing provided under paragraph (b)(2) of this section must be provided to all
students enrolled in grades pre-kindergarten through 6 through health education programs or related
classes.

   (3) The educational programing provided under paragraph (b)(3) of this section must be provided to
parents of students enrolled in grades pre-kindergarten through 6 through written materials, available
online through the school district's or charter school's website or in hard copy upon a request by
parents, on an annual basis and may be provided through live presentations.

(e) Notification of parents. Prior to providing any instruction under paragraph (d)(2) of this section, each
school district and charter school shall inform the parent of any student enrolled in grades pre-
kindergarten through 6 in writing that the parent may examine and review the educational materials
before the materials are taught.

(f) Accountability.

   (1) Each school district and charter school shall designate an individual responsible for overseeing the
implementation of the educational programing provided under subsection (b) of this section. Each
school district and charter school shall provide the name and contact information for the individual
designated under this subsection to the Department of Education no later than November 15 of each year.

(2) Each individual designated under paragraph (f)(1) of this section shall report to the Department of Education no later than November 15 of each year how the educational programming has been implemented by that individual's school district or charter school.

(3) The Department of Education shall submit a written report to the Governor, the members of the General Assembly, and the Director of the Division of Research no later than January 15 of each year. The report must include the educational programming provided under subsection (b) of this section and how the curriculum has been implemented by each school district and charter school under subsection (d) of this section.

(g)(1) Each school in a school district and each charter school shall post, in a conspicuous location where notices to students are customarily posted, the number for the toll-free telephone report line for child abuse and neglect as established under § 905 of Title 16. The posting must be made in English and Spanish and must be made in a format and language that is clear, simple, and understandable to students.

(2) There is no private right of action for a violation of this subsection.

(h) Short title. This section shall be known and may be cited as "Erin's Law".

14 Del.C. §4165. Suicide awareness and prevention.

(a) Suicide prevention training program. The Department of Health and Social Services, the Department of Services for Children, Youth and their Families, and the Department of Education shall identify and maintain a suicide prevention training program for school district and charter school employees that is evidence-based, whenever available.

(b) Suicide prevention policy. Each school district and charter school shall establish a policy which shall require, at a minimum, all of the following:

(1) Recognition of the serious problem of youth suicide.
(2) The development of a suicide prevention program.
(3) That each school within a school district and each charter school establish a committee that is responsible for coordinating the suicide prevention program within that school.
(4) A statement prohibiting retaliation against a school district or charter school employee, a school district or charter school volunteer, or student for reporting the warning signs of suicide.
(5) That a procedure be established for the confidential and anonymous reporting of the warning signs of suicide.
(6) That a procedure be established for communication between school staff members and medical professionals who are involved in treating students for suicide issues.

(c) Accountability. Each school district and charter school shall adopt the policy required by subsection (b) of this section and shall submit a copy to the Department of Education by September 1, 2016, and by September 1 of a newly approved charter school's first year of operation. Each school district and charter school shall provide any changes to the policy to the Department within 60 calendar days.

(d) Dissemination of policy. Each school district and charter school shall ensure that the policy adopted under this section appears in the student and staff handbook and on its website.

(e) Immunity. A school district or charter school employee, school district or charter school volunteer, or student is individually immune from a cause of action for damages arising from reporting warning signs of suicide to the appropriate person using the procedures specified in the school district's or charter school's
suicide prevention policy, but there is no such immunity if the act of reporting constituted gross negligence or reckless, willful, or intentional conduct.

REGULATIONS


4.0. Training Component

4.1. Any school administrator responsible for reporting school crimes or reporting school conduct incidents to law enforcement and to the Department of Education; or any school administrator responsible for reporting suspension and expulsion data to the Department; or any school administrator responsible for any disciplinary process involving staff or students shall complete Department of Education approved training and any such additional training the Department of Education may prescribe from time to time.

4.2. The approved training shall be primarily provided by staff at the Department of Education. The training may be provided by a school administrator at the district, charter school, or Alternative Program who is qualified to provide such training by having completed the Department of Education approved training within the last twenty-four (24) months. The district, charter school, or Alternative Program shall provide the name(s) of the trainer(s) conducting the training and the name(s) of those school administrator(s) attending the training if such training was provided by the district, charter school, or Alternative Program.

4.3. Each school district, charter school, and Alternative Program shall, at the time of hiring and at the beginning of each school year thereafter, advise each School Employee of his/her duty to report school crimes and the penalty for failure to so report as prescribed in 14 Del.C. §4112 (e).


4.0. Training of Personnel

4.1. Except as provided in 14 Del.C. §702(c), a student may be physically restrained only by public school personnel, private program personnel, or alternative program personnel who have completed training in physical restraint procedures.

4.1.1. Such personnel shall receive annual training in the use of crisis prevention and intervention techniques consistent with nationally-recognized training programs, which shall meet the following minimum requirements:

4.1.1.1. The training shall address prevention techniques, de-escalation techniques, and positive behavioral intervention strategies and supports;

4.1.1.2. The training shall be designed to meet the needs of such personnel consistent with their duties and the potential need for emergency safety interventions; and

4.1.2. Each public school, private program, and alternative program shall maintain written or electronic documentation of each training provided, which shall include a list of all personnel who participated in the training.

4.2. Any public school personnel responsible for reporting the physical restraint of a student to the Department shall complete training on the reporting process approved by the Department and any additional training that the Department may prescribe from time to time.

4.2.1. The approved training shall be provided using a web-based platform through the Department’s Professional Development Management System (PDMS) or similar system. The training will be provided on an annual basis and made available throughout each school year.
4.2.2. Such personnel responsible for reporting the physical restraint of a student shall complete the approved training at least once every three (3) years and during any year in which reporting procedures were changed from the previous year as indicated by the Department.
Monitoring and Accountability

Formal incident reporting of conduct violations

LAWS


(b) Criminal violation; mandatory reports.

(1) Whenever a school employee has reliable information that would lead a reasonable person to believe that:

a. A student, school volunteer, or a school employee, has been the victim of:
   1. A violent felony,
   2. An assault III, or
   3. An unlawful sexual contact III, which occurred on school property or at a school function; or
b. A student has been the victim of:
   1. A violent felony
   2. An assault III, or
   3. Any sexual offense, as defined in § 761(h) of Title 11, and
      the offense was committed by another school employee regardless of whether the offense occurred on school property or at a school function; then the school employee who has reliable information that would lead a reasonable person to believe that a crime has been committed shall immediately report the incident to the principal.

(2) The principal must immediately make reasonable efforts to notify the parents of any juvenile victim and must send written notification of the incident to the parents within 3 business days. This paragraph does not apply if the parent is alleged to be the offender.

(3) The principal shall immediately report the incident to the appropriate police agency. The report shall be made by telephone or in person immediately and shall be followed by a written report of the school's investigation within 3 business days.

(4) If the police agency determines that probable cause exists to believe that a crime has been committed, or if the principal later learns that a suspect has been arrested for the offense, then the principal must file a written report of the incident to the Department of Education within 5 days.

(5) Nothing in this section shall preclude a school employee who has reliable information that would lead a reasonable person to believe a crime has been committed from reporting the incident to the principal within a reasonable amount of time. In such instances where a report is made, the school officials shall follow the procedure set forth in paragraphs (b)(2) through (6) of this section. Nothing in this section shall abrogate the reporting requirements for child abuse or sexual abuse set forth in § 903 et seq. of Title 16.

(6) Offenders under the age of 12. When a misdemeanor offense listed in this subsection has allegedly been committed by a child under the age of 12, the principal is not required to notify the appropriate police agency but must file a written report of the incident with the Department of Education within 5 working days. When the alleged offense is a violent felony, the appropriate police agency must be notified by the principal of the incident even when the suspect is under the age of 12.

(7) Sexual harassment. Whenever a school employee has reliable information that would lead a reasonable person to believe that a student has been the victim of sexual harassment, as defined in Title 11, which occurred on school property or at a school function, the harassment must be reported to
the principal, who, immediately after conducting a preliminary investigation to determine if good reason exists to believe that harassment has occurred, must notify the victim's parent of that determination, if the parent is not alleged to be the offender. The principal is not required to notify the appropriate police agency, but must file a written report with the Department of Education.

(8) Under no circumstances shall any person who has supervisory authority over the principal or any school board member exercise any control of, hinder or delay the lodging of any oral or written report required to be made pursuant to this subsection or the forwarding of such report to the Department of Education or the police. A principal (or acting principal if the principal is absent) may not delegate to or rely upon any other person except an assistant principal to make the immediate report to the police. A person with supervisory authority over the principal or any school board member who has knowledge of an incident which is required to be reported under this section, and who has information that would lead a reasonable person to believe that it has not been reported to the police, has an affirmative duty to report the incident to the police immediately. This includes, but is not limited to, incidents in which a school employee is a possible suspect and when an administrative review is ongoing.

14 Del.C. §4112A. Office of school criminal offense and bullying ombudsperson.

(a) There is hereby established within the State Department of Justice, the Office of School Criminal Offense and Bullying Ombudsperson.

(b) The purpose of the Ombudsperson is to ensure the proper administration of the school criminal offense reporting law contained in § 4112 of this title and the school bullying prevention law contained in § 4164 of this title.

(c) The Ombudsperson shall have the power to:

1. Investigate and seek to resolve complaints made by and concerns of members of the public, school officials, and pupils regarding criminal offenses and incidents of bullying committed on school property;
2. Investigate complaints regarding the alleged failure of school officials to report criminal offenses as required under § 4112 of this title and incidents of bullying as required under § 4164 of this title;
3. Establish policies and procedures for eliciting, receiving, investigating, verifying, and resolving complaints; and
4. Perform such other acts as are necessary to carry out the purpose set forth in subsection (b) of this section.

14 Del.C. §4112B. Ombudsperson access.

(a) The Ombudsperson shall have access to any school record or pupil file which is relevant to the performance of the Ombudsperson's duties, including any record otherwise considered confidential under Delaware law.

(b) The Ombudsperson may initiate an investigation of any criminal offense committed on school property or any incident of bullying independent of the receipt of a specific complaint.

(c) The Ombudsperson shall protect the confidentiality of pupils' records and files as required under Delaware law.

(d) Notwithstanding any other provision of law, the Ombudsperson shall not disclose the identity of any complainant unless a court orders such disclosure or the complainant consents in writing to the disclosure of the complainant's identity.


For purposes of this subchapter:
(1) “Bullying” means any intentional written, electronic, verbal, or physical act against another student, a school district or charter school volunteer, or a school district or charter school employee that a reasonable person under the circumstances should know will have any of the following effects:
   a. Place a student, school district or charter school volunteer, or school district or charter school employee in reasonable fear of substantial harm to the student’s, volunteer’s, or employee’s emotional or physical well-being or substantial damages to the student’s, volunteer’s, or employee’s property.
   b. Create a hostile, threatening, humiliating, or abusive educational environment due to the pervasiveness or persistence of actions or due to a power differential between the bully and the target.
   c. Interfere with a student having a safe school environment that is necessary to facilitate educational performance, opportunities, or benefits.
   d. Perpetuate bullying by inciting, soliciting, or coercing an individual or group to demean, dehumanize, embarrass, or cause emotional, psychological, or physical harm to another student, school district or charter school volunteer, or school district or charter school employee.

(2) “Charter school” means a public school established under Chapter 5 of this title.

(3) “Child abuse” means causing or inflicting any of the following on a child:
   a. Sexual abuse.
   b. Serious physical injury or death, or physical injury through unjustified force not permitted under § 468 of Title 11. For purposes of this paragraph (3)b., “serious physical injury” and “physical injury” mean as defined in § 222 of Title 11.
   c. Emotional abuse.
   d. Torture.
   e. Exploitation.
   f. Maltreatment or mistreatment.

(4) “Child sexual abuse”, “sexual abuse”, or “sexually abused” means the commission of any act that is listed in the definition of sexual offense in § 761 of Title 11.

(5) “Consent” means the unambiguous, voluntary, and freely given agreement by all participants in each physical act in the course of sexual activity, including respect for personal boundaries. Consent does not include any of the following:
   a. The lack of verbal or physical resistance or submission resulting from the use of force, threat of force, or placing another individual in fear.
   b. A current or previous dating, social, or sexual relationship.

(6) “Criminal youth gang” means as defined in § 617(a) of Title 11.

(7) “Parent” means a natural parent, an adoptive parent, any person legally charged with the care or custody of a student under 18 years of age, or any person who has assumed responsibility for the care of a student under 18 years of age including any person acting as a caregiver pursuant to the provisions of § 202(f) of this title.

(8) “Personal body safety” means understanding the difference between appropriate and inappropriate touching and how to communicate inappropriate behavior to a trusted adult.

(9) “School district” means a clearly defined geographic subdivision of the State organized for the purpose of administering public education in that area and includes a district specifically created to administer a system of vocational or technical education.
(10) “School district and charter school employee,” “school district or charter school employee,” or “employee” means all individuals, including teachers, school administrators, school support personnel, instructional aides, nurses, school counselors, coaches, custodial staff, and nutrition staff, hired by a school district or charter school or a program established under Chapter 16 of this title, who provide services to students on a regular, ongoing basis. “School district and charter school employee,” “school district or charter school employee,” or “employee” does not include contractors or subcontractors, such as bus drivers or security guards; substitute employees; and individuals hired by or subcontracted by other state agencies to work on school property.

(11) “Sexual assault” means any unwanted sexual behavior committed by a perpetrator who is a stranger to the victim or by a perpetrator who is known by the victim or related to the victim by blood or marriage. “Sexual assault” includes the following behaviors: sexual harassment, as defined in § 763 of Title 11; sexual contact, as defined in § 761 Title 11; sexual intercourse, as defined in § 761 of Title 11; sexual penetration, as defined in § 761 of Title 11; and sexual abuse.

(12) “Teen dating violence” means assaultive, threatening, or controlling behavior, including stalking as defined in § 1312 of Title 11, that one person uses against another person in order to gain or maintain power or control in a current or past relationship and can occur in both heterosexual and same sex relationships and in serious or casual relationships.

14 Del.C. §4164. School bullying awareness and prevention; criminal youth gang detection.

(b) Prohibition of bullying.

(2) Each school district and charter school shall establish a policy which, at a minimum, includes the following components:

  e. A requirement that any school district or charter school employee that has reliable information that would lead a reasonable person to suspect that a person is a target of bullying must immediately report it to the administration.

  j. A requirement that a parent of any target of bullying or perpetrator of bullying be notified and provided with a form to be generated by the Department of Justice describing the role of the Department of Justice School Ombudsman and providing contact information. This form must also inform a parent of the parent's right to know when the bullying incident in question has been reported to the Department of Education under paragraph (b)(2)k. of this section.

  k. A requirement that all reported incidents of bullying, regardless of whether the school could substantiate the incident, be reported to the Department of Education within 5 working days under Department of Education regulations. The school shall notify a parent of all students involved in the reported incident when the report is made.

REGULATIONS


5.0. Reporting of Crimes to the Delaware Department of Education

  5.1. The superintendent or head administrator of each school district, charter school, and Alternative Program or his/her designee, shall ensure each school within his/her jurisdiction reports to the Department of Education all school crimes required to be reported pursuant to 14 Del.C. §4112, and any subsequent amendment thereto. Such reports shall be submitted in a format as designated by the Department of Education and filed with the Department of Education within the time prescribed by Delaware statutes.

6.0. Reporting Specific Incidents of Misconduct
6.1. In addition to those school crimes required to be reported to law enforcement pursuant to 14 Del.C. §4112, the superintendent or head administrator of each school district, charter school, and Alternative Program, or his/her designee, shall report to the Department of Education incidents of misconduct 6.1.1 through 6.1.14. Such reports shall be submitted in a format as designated by the Department of Education and filed with the Department of Education not later than five working days following the incident.

   6.1.1. Pornography, possession and production
   6.1.2. Criminal mischief (vandalism)
   6.1.3. Tampering with public records
   6.1.4. Alcohol, possession and use
   6.1.5. Felony theft
   6.1.6. Bullying (allegations and substantiated incidents)
   6.1.7. Offensive Touching (student or employee victim)
   6.1.8. Terroristic Threatening (student or employee victim)
   6.1.9. Sexual Harassment
   6.1.10. Fighting
   6.1.11. Inhalants
   6.1.12. Drug Paraphernalia
   6.1.13. Teen Dating Violence
   6.1.14. Unlawful Drug Use/Influence


1.0. Purpose

Pursuant to 14 Del.C. §122(b)(26), this regulation, which applies to all public school districts and charter schools, provides uniform procedures for the following situations: referral of students who warrant consideration for placement outside the Regular School Program into an Alternative Program; placement of students into an Alternative Program; monitoring student progress while in Alternative Placement; return of students back into the Regular School Program from an Alternative Program; Suspensions; and Expulsion hearings.

3.0. Preliminary Discipline Investigation & Reporting Requirements

3.1. Investigatory Procedures & Timeline

   3.1.1. In any instance when student Disciplinary Action which may result in removal of the student out of the Regular School Program for one day or more is contemplated, the Principal shall conduct a preliminary investigation to determine if there is reasonable basis to pursue Disciplinary Action.

   3.1.1.1. The Principal may remove the allegedly offending student from the general student population while conducting the preliminary investigation if the student's presence in the School Environment poses a threat to the health, safety, or welfare to persons or property within the School Environment, as determined by the Principal. Initial due process in accordance with subsection 4.2.1 of this regulation shall be provided.

   3.1.1.2. When obtaining written statements from witnesses, reasonable efforts may be made to notify the Parent of each witness.

   3.1.1.3. Reasonable efforts shall be made to include the allegedly offending student or Parent in the preliminary investigation.
3.1.2. The investigation shall be completed within three (3) school days of the date the incident in question was reported.

3.1.3. The Principal shall confiscate any contraband as defined in the Student's Code of Conduct or under the School's policy or state or federal law, which may be used for criminal/juvenile delinquency proceedings. Such contraband shall be labeled and secured in a locked area. Any confiscated contraband, or that reasonably understood to be illegal contraband, which may be used for criminal/juvenile proceedings shall be turned over to the appropriate police agency as soon as practicable.

3.2. Reporting Requirements

3.2.1. If the investigation reveals that there is reliable information that would lead a reasonable person to believe that a mandatorily reportable crime under 14 Del.C. §4112 has been committed, the Principal shall immediately notify the appropriate law enforcement agency of the incident.

3.2.1.1. All reports to the appropriate law enforcement agency must be made immediately by telephone or in person and shall be followed by a written report of the investigation within three (3) business days.

3.2.2. The Principal shall report all offenses listed as a mandatory report to the Department of Education under 14 Del.C. §4112 and 14 DE Admin. Code 601 within five (5) business days of the incident by completing the information in the eSchoolPlus discipline center or successor Delaware Department of Education approved student database management application.

4.0. Initial Due Process

4.1. A student shall be afforded initial due process rights for discipline procedures which result in the removal of the student for one day or more from the Regular School Program due to a violation of the school's Student Code of Conduct.

4.1.1. Prior to any removal of one day or more from the Regular School Program due to a violation of the school's Student Code of Conduct:

4.1.1.1. The student had prior opportunity to be informed in accordance with the established Student Code of Conduct rules and/or regulations.

4.1.1.2. The administrator/designee shall inform, orally or in writing, the student of the allegation(s) against him/her, the conduct which forms the basis of the allegation(s), and the policy, rule, or regulation violated.

4.1.1.3. The student shall be given an explanation of the evidence supporting the allegation(s) and an opportunity to present his/her side of the story including any evidence.

4.2. Due Process Delay Provision

4.2.1. A student whose presence in the School Environment poses a threat to the health, safety, or welfare to persons or property within the School Environment, as determined by the Principal, may be immediately removed from school provided that, as soon as practicable thereafter, the initial due process procedures outlined in subsection 4.1 of this regulation are followed.

4.3. In addition to the initial due process rights, a student who is recommended for Alternative Placement or Expulsion shall receive applicable additional due process rights as outlined in Sections 7.0, 10.0, and 11.0 of this regulation.
Parental notification

LAWS

14 Del.C. §2702. Compulsory attendance requirements; evaluation of readiness.

(d) The following provisions shall be applicable in regard to statewide minimum mandatory attendance requirements in each school year for children in grades K through 12.

(1) Following the tenth day of unexcused absence by a student, the school shall immediately notify the parent or parents or guardian and a visiting teacher for the district shall visit the student's home;

(2) Following the fifteenth day of unexcused absence by a student, the student's parent or parents or guardian shall be notified by certified mail to appear at the school within 10 days of notification for a conference and counseling;

(3) Following the twentieth day of unexcused absence by a student, the school shall refer the case for prosecution;

(4) Following the completion of prosecution of the case and the subsequent failure of the student to return to school within 5 school days thereof, the school shall immediately notify the Department of Services for Children, Youth and Their Families requesting intervention services by the Department. The Department shall contact the family within 10 business days.

(e) Following the tenth unexcused day of attendance by a student in grades 6 through 12 inclusive, the building principal shall notify a visiting teacher of such unexcused days.

(f) If contacted by the school pursuant to paragraph (d)(2) of this section, each parent or guardian of a student shall sign a contract with the district agreeing they will make every reasonable effort to:

(1) Have their child or children abide by the school code of conduct;

(2) Make certain their child attends school regularly; and

(3) Provide written documentation for the reasons for any absence.


(b) Criminal violation; mandatory reports.

(2) The principal must immediately make reasonable efforts to notify the parents of any juvenile victim and must send written notification of the incident to the parents within 3 business days. This paragraph does not apply if the parent is alleged to be the offender.

14 Del.C. §4112F. Limitations on use of seclusion and restraint.

(c) Department of Education role; regulations.

(1) The Department of Education shall promulgate regulations implementing this section. Such regulations shall include, but not be limited to, the following:

b. Requirement of timely parental notice in event of use of physical restraint;

(4) Unless proscribed by federal law, the Secretary of Education may issue a waiver of the prohibition on mechanical restraint and seclusion for an individual student based on compelling justification and subject to specific conditions and safeguards which must include a requirement of continuous visual staff monitoring and parental notice of each use of mechanical restraint or seclusion. 14 Del.C. §4117. Substance abuse.

(a) Each school district shall designate an administrator in every school as the person responsible for reporting, to parents and/or law enforcement agencies, any violation and/or problems relating to the abuse of controlled substances. Such administrator shall not be liable under the laws of this State for
any act or omission committed by the administrator in the performance of that administrator's duties
and responsibilities under this section.

(b) No administrator having reporting responsibilities under this section shall be required to report any
substance abuse violation and/or problem to a parent if such person, being the principal of the school,
reasonably believes that a parent or parents are a cause of or are involved in the violation and/or
problem; nor shall any other administrator, having reporting responsibilities under this section, be
required to report any substance abuse violation and/or problem to a parent, if such administrator and
the principal of the school both believe that a parent or parents are a cause of or are involved in the
violation or problem.

14 Del.C. § 4122. Parent's failure to attend school conference with superintendent; subpoena to
compel attendance.

(a) “Parent” as used in this section means natural parent, adoptive parent, any person legally charged
with the care or custody of a student under 18 years of age, or any person who has assumed
responsibility for the care of a student under 18 years of age including any person acting as a caregiver
pursuant to the provisions of § 202(f) of this title.

(b) When a parent fails to attend, participate or respond to a public school or charter school
superintendent's request for a conference to discuss matters involving alleged violations of school rules or
regulations by the parent's child, the public school or charter school superintendent or the
superintendent's designee may request that the Justice of the Peace Court issue a subpoena to compel
the presence of the parent at a conference with the superintendent.

(c) Prior to the issuance of a subpoena to compel the presence of a parent, the superintendent or a
designee must provide evidence that the superintendent or a designee has:

1. Made a reasonable attempt to schedule the conference at a time that does not conflict with the
employment hours of the parent; and
2. Sent written notice of the conference by regular United States mail to the address of record of the
parent, which notice shall include the reason for the conference and a statement that failure to schedule
or attend the conference may result in the issuance of a subpoena.

(d) After verifying that the superintendent or a designee has sent the required notice, the Justice of the
Peace Court may, in its discretion, issue a subpoena pursuant to Justice of the Peace Civil Rule 18 which
shall compel the presence of the parent at a conference with the superintendent.

(e) If a parent fails to obey a subpoena properly served under this section, the superintendent may file a
motion for an order holding the parent in contempt of court. The Justice of the Peace Court shall have
jurisdiction over this matter. A parent found guilty of contempt for failure to appear at a conference after
receiving a subpoena may be ordered by the Court to attend school with the student, attend family
counseling, and/or comply with such other conditions as the Court may order.

(f) Proceedings against a parent of a suspended or expelled child may also be filed pursuant to
subchapter II of Chapter 27 of this title for each day that the child is absent beyond the period of
suspension or expulsion without a valid excuse as a result of the parent's failure to attend or schedule a
conference after having received notification of the suspension or expulsion.

14 Del.C. § 4164. School bullying awareness and prevention; criminal youth gang detection.

(b) Prohibition of bullying.

(2) Each school district and charter school shall establish a policy which, at a minimum, includes the
following components:
j. A requirement that a parent of any target of bullying or perpetrator of bullying be notified and provided with a form to be generated by the Department of Justice describing the role of the Department of Justice School Ombudsman and providing contact information. This form must also inform a parent of the parent’s right to know when the bullying incident in question has been reported to the Department of Education under paragraph (b)(2)k. of this section.

k. A requirement that all reported incidents of bullying, regardless of whether the school could substantiate the incident, be reported to the Department of Education within 5 working days under Department of Education regulations. The school shall notify a parent of all students involved in the reported incident when the report is made.

REGULATIONS

The Elementary and Secondary Education Act (ESEA) of 1965, as amended by the No Child Left Behind Act of 2001, requires that a State Education Agency establish a State Unsafe School Choice Option policy in order to receive funding under ESEA.

4.0. Students Attending Schools Labeled as Persistently Dangerous

4.1. A student attending a Persistently Dangerous School shall be allowed to choice to a Safe School in the same school district, including a charter school provided that a charter school option exists in that school district’s boundaries.

4.2. Each public school district having one or more Persistently Dangerous Schools and any charter school identified as a Persistently Dangerous School shall develop a plan and timeline that describes the process for notifying parents of the School’s status and for relocating any student who exercises the right to choice to a Safe School. The plan shall also describe the corrective actions that will be implemented. The plan shall be forwarded to the Department of Education no later than September 15th of the year that the School is identified.


5.0. Parental Notification of Use of Physical Restraint

5.1. Except as provided in Section 5.1.1, if a student is physically restrained, a reasonable attempt shall be made to notify the parent on the same day, but in no event later than twenty-four hours after, the physical restraint is used. Such notification shall be made in person, by phone or by voicemail, or by e-mail. The school shall maintain written documentation of successful and unsuccessful attempts to notify the parent.

5.1.1. Where physical restraint is included in the student’s IEP or Section 504 Plan, the IEP Team or Section 504 Team, including the parent, shall determine a timeframe and manner of notification of each incident of physical restraint.

5.2. The parent shall be provided a copy of a final written report no later than the date on which such report is filed with the Department. The written report shall contain, at a minimum, the information required under Section 6.0.


3.0 Written Decision Required

When a school board expels a student but determines the student shall not be placed at a Consortium Discipline Alternative Program, the school district’s decision shall be in writing and address with specificity the reasons for non-placement and the evidence in support thereof. Such decisions shall be submitted to
the Delaware Department of Education's Office of School Climate within five working days of such decision with a copy to the student's parent, guardian, or Relative Caregiver.

4.0 Informing the Parents, Guardians, Relative Caregiver or Students (If the Student is Age 18 or Older) Districts shall inform the parents, guardians, Relative Caregiver or students (if the student is age 18 or older) of the alternative education options that are then currently available to them if the students have been expelled or expulsion is being considered. These options may include, but are not be limited to, the Consortium Discipline Alternative Program, a GED Program, James H. Groves High School and continued special education and related services for children with disabilities as determined by the student's eligibility for participation in such programs. A student's eligibility for such alternative education options is determined by the requirements of such programs.

14 DE Admin. Code §612. Possession, use or distribution of drugs and alcohol.

4.0. Requirement of Each School District and Charter School to have a Policy

4.1. Each school district and charter school shall have a policy on file and update it periodically. The policy shall include, at a minimum, the following:

4.1.3. A written policy which sets out procedures for reporting incidents to police authorities, parents, guardians or Relative Caregivers and to the Department of Education, while maintaining confidentiality.


1.0. Purpose

Pursuant to 14 Del.C. §122(b)(26), this regulation, which applies to all public school districts and charter schools, provides uniform procedures for the following situations: referral of students who warrant consideration for placement outside the Regular School Program into an Alternative Program; placement of students into an Alternative Program; monitoring student progress while in Alternative Placement; return of students back into the Regular School Program from an Alternative Program; Suspensions; and Expulsion hearings.

2.0. Terms and Definitions

In this regulation, the following terms and words shall have the following meaning unless the context clearly indicates otherwise:

"Alternative Placement Team (APT)" means a committee composed of the following: a representative of the Alternative Program staff; a district level coordinator who will be designated by the superintendent; the building level principal, assistant principal or other person as appropriate; the student's Parent; guidance counselor or school social worker; and, if appropriate, a representative from the Department of Services for Children Youth and Their Families (DSCYF) with knowledge of the student's and family's needs. Other individuals may be invited as determined by the APT. The APT reviews and prescribes the appropriate placement for students being considered for Alternative Placement.

"Alternative Placement Team Meeting" means a meeting held by the district/charter school Alternative Placement Team to determine the appropriate educational setting for a student whose behavior is within the defined conduct under 14 DE Admin. Code 614 and who has been recommended for Assignment to an Alternative Program.

"Building Level Conference" means a meeting which is held by phone or in person between the Principal, other appropriate school staff members as determined by the Principal, a student and a student's Parent to discuss the student's misconduct relative to a recommendation for Suspension, Alternative Placement, or Expulsion.
"Intake Meeting" means the meeting at an Alternative Program site which includes the student, the Parent, district/charter school representative, program administrator and other appropriate Alternative Program staff. At this meeting the program's rules and expectations are reviewed, paperwork that requires student and Parent signatures is completed, and the district's/charter school's individualized goals and expectations for the alternatively-placed student are reviewed.

"Parent" means a biological or adoptive parent of a child; a guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State); an individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives and for whom a Relative Caregiver's School Authorization executed in compliance with 14 Del.C. §202(f)(1) is on file; an individual or entity who is otherwise legally responsible for the child's welfare; a surrogate parent who has been appointed in accordance with 14 DE Admin. Code 926.19; or a student who has reached the age of majority as defined in 1 Del.C. §701.

"Student Review" means a formal meeting that takes place at the Alternative Program with the district/charter school representative, the Alternative Program Administrator, and other appropriate Alternative Program staff to determine to what degree the student currently placed in the Alternative Program is progressing toward their behavioral and academic goals as determined during the student's Intake Meeting. The student and Parent shall be invited to attend this meeting.

"Transition Meeting" means a meeting to discuss the student's return to the Regular School Program which takes place at the school in which the student is enrolled, with the Alternative Program representative, the district/charter school representative, the student, the Parent, a school administrator, a teacher, a school counselor, a student advisor or disciplinarian if assigned, or other representative.

5.0. Suspensions

5.4. When a student receives a Suspension from school (in or out-of-school), reasonable attempts to provide verbal notification to the Parent shall be made by the Principal prior to the Suspension being served. Written notification of the Suspension and information regarding the districts/charters appeal or Grievance process shall be given or sent to the Parent as soon as practicable, but no later than three business days. The notification shall state the cause and duration of the Suspension.

5.4.1. The Parent or student may appeal the Suspension to the next administrative level in accordance with the district/charter's appeal or Grievance process.

5.5. Prior to the student's return from an out-of-school Suspension of three (3) school days or more, the Principal shall hold an in-person or phone conference with the Parent and student. A definite time, date, and place for the conference shall be designated by the Principal. The Principal may waive this conference requirement.

6.0. Requirement of Grievance Process

6.1. Each district/charter school shall have a written Grievance procedure. The district/charter school shall have the written Grievance procedures available for Parent review.

7.2. Responsibilities for Student Referral Which May Lead to Alternative Program Placement

7.2.1. When it is alleged that a student committed a violation of the Student Code of Conduct and may be subject to a recommendation for Alternative Placement, the following procedures shall occur:

7.2.1.6. A charter school Principal shall verify that the Alternative Placement referral meets the conditions set forth in 14 Del.C. §504A(8).

7.2.1.7. For all referrals for Alternative Placement for a general education or special education student, the Principal shall hold a Building Level Conference with the Parent and the student.
7.2.1.7.1. The Principal shall explain to the Parent and the student the purpose of the meeting is
to inform them: 1) of the referral for Alternative Placement; 2) that the student may be suspended
pending the outcome of the district/charter school Alternative Placement Team Meeting and; 3) of
the procedures that will take place as follow-up to the referral for Alternative Placement.
7.2.1.7.2. The conference shall be held by phone or in person.
7.2.1.7.3. The Principal shall have at least one other person present to take notes during the
conference or shall have the conference audio recorded.
7.2.1.8. Notice of the Alternative Placement Meeting shall be mailed to the Parent and the student
via regular U.S. and certified mail at least five business days before the meeting is to occur.

7.3. Alternative Placement Meeting for Districts/Charter Schools
7.3.1. A district/charter school Alternative Placement Meeting shall take place to determine if an
alternative setting is appropriate for a referred student.
7.3.1.1. The Parent and student shall receive verbal and written notification of the district/charter
school's Alternative Placement Meeting. Parents and student may, but are not required to, attend
the meeting.
7.3.1.2. The Parent and student shall be informed of the district/charter school Alternative
Placement Team's decision for placement within one (1) business day of the meeting.
7.3.1.2.1. If the decision is to assign to an Alternative Placement, the Superintendent shall send
follow-up written notice within three (3) business days to the Parent describing the circumstances
which led to the placement, identifying the Alternative Program to which the student is being
assigned, and the conditions which must be met in order for the student to return to the Regular
School Program.

7.4. Student Assignment to an Alternative Program
7.4.1. The district/charter school representative shall contact the selected Alternative Program to set
up a date and time for an Intake Meeting.
7.4.1.1. The Intake Meeting shall not occur unless all required participants are present, unless
excused by the Superintendent, and documentation from the Alternative Placement Packet is
provided.
7.4.1.1.1. Participants required to be present at the Intake Meeting include, but are not limited to,
the student, the Parent, a district/charter school representative, the Alternative Program
administrator, and other appropriate Alternative Program staff.

9.0. Procedures for Student Return to the Regular School Program
When a Student Review results in a recommendation for return to the comprehensive school setting, a
Transitional Meeting at the student's comprehensive school will be held between the Alternative Program
representative, the district/charter school representative, the student, the Parent, the school administrator,
a teacher, a school counselor, a student advisor or disciplinarian, if assigned. Other individuals may be
invited as determined by the members of the Transitional Meeting team. This meeting shall take place
prior to a student's return to that comprehensive school and shall result in a document setting forth the
terms of the return.

10.0. Procedures for the Expulsion of Students
10.2. After the student has been afforded initial due process procedures, if the Principal decides that
Disciplinary Action in the form of a recommendation for Expulsion will be made, the following
procedures shall be followed:
10.2.1. Student will be given written notice of charges and the Parent shall be notified verbally and in
writing as soon as practicable thereafter.
10.2.3. The Principal shall hold a Building Level Conference with the Parent and the student. The Principal shall explain to the Parent and the student the purpose of the meeting is to inform them: 1) of the recommendation for Expulsion; 2) that the student will be serving a Short-term Suspension pending the outcome of the Expulsion hearing and; 3) of the procedures that will take place as follow-up to the recommendation for Expulsion.

10.2.3.1. The conference shall be held by phone or in person.

10.2.3.2. The Principal shall have at least one other person present to take notes during the conference or shall have the conference audio recorded.

10.2.4. All documentation related to the recommendation for Expulsion shall be delivered to the Superintendent within two (2) business days of the Building Level Conference or seven (7) business days of the incident, whichever is sooner.

10.3. Expulsion Hearings

10.3.1. Upon receipt of a recommendation following the Building Level Conference, the Superintendent shall review documentation to affirm that appropriate discipline procedures were followed. The Superintendent shall, within ten (10) business days of the date of the incident, notify the student and the Parent by letter that a district-level Expulsion hearing will be held to consider the recommendation.

10.3.1.1 The Superintendent shall not have been a participant in the disciplinary investigation or Building Level Conference resulting in the recommendation for Expulsion.

10.3.2. Written notice shall, at a minimum, be sent by regular U.S. and certified mail to the Parent describing the circumstances which led to the recommendation for Expulsion and shall give the date, time, and location of the hearing.

10.3.3. The hearing shall be held not less than seven (7) business days or more than twenty (20) business days after receipt of written notice. The written notice shall be deemed to be received on the fourth business day following the day of mailing. This time period may be waived by agreement of the parties. A copy of the documentation shall be made available, upon request, to the student and Parent at the district/charter school office prior to the mailing.

10.3.4. If requested, the student and Parent will also be given a copy of the following:

10.3.4.1. The reason(s) for the recommendation;

10.3.4.2. The name(s) of witnesses who may appear; and

10.3.4.3. Copies of information that may be submitted as evidence.

10.3.5. The district/charter shall receive written Parent permission for any witness who is a minor.

10.4. Expulsion Decision by Board of Education

10.4.5. Any decision to expel a student shall be reported to the Delaware Department of Education within five (5) business days of the Board's decision to expel. When a Board of Education expels a student, but determines the student shall not be placed at a Consortium Discipline Alternative Program, the written decision shall address with specificity the reason for non-placement and the evidence in support thereof. Such decisions shall be submitted to the Delaware Department of Education's Office of School Climate and Discipline within five business days of such decision, with a copy to the student's Parent.


30.0. Discipline Procedures Authority of School Personnel.
30.8. Notification: The LEA or other public agency shall ensure that the parents, guardian or Relative Caregiver of each child with disabilities receive written notice of the rules and regulations applicable to such children with respect to discipline, suspension, expulsion, and exclusion as a treatment procedure at the beginning of each school year or upon entry into a special education program during the school year; and

30.8.1. On the date on which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of a code of student conduct, the LEA shall notify the parents of that decision, and provide the parents the procedural safeguards notice described in 4.0.

Reporting and referrals between schools and law enforcement

LAWS

(b)(3) If an offender is attending school, the offender shall inform the principal of the school upon enrollment of the offender's registration, unless pursuant to § 4123 of this title, the Family Court has not required a juvenile adjudicated delinquent of a sex offense to register.

(a) Definitions. The following words, terms and phrases, when used in this section, shall have the meaning ascribed to them except where the context clearly indicates a different meaning:

1) "Crime" includes a felony, misdemeanor or violation defined in the Delaware Code, as well as behavior by a person under 18 years of age which would be considered a felony, misdemeanor or violation if it had been committed by an adult.

2) "Non-instructional designee" means a school employee whose primary job duty does not include teaching students.

3) "Notification" means direct contact by telephone, facsimile, electronic mail, Department of Education electronic filings, in person, or by certified mail, unless otherwise designated.

4) "Parent" includes natural parent, adoptive parent, or any person, agency, or institution that has temporary or permanent custody or guardianship over a student.

5) "Parent conference" includes a meeting by telephone or in person, unless otherwise designated.

6) "Principal" means the building principal, or the equivalent of the building principal, of any public school or charter school, or the building principal’s designee.

7) "School employee" includes all persons hired by a school district, attendance zone or charter school; subcontractors such as bus drivers or security guards; substitute employees; and persons hired by or subcontracted by other state agencies to work on school property.

8) "School function" includes any field trip or any officially sponsored public or charter school event.

9) "School property" means any building, structure, athletic field, sports stadium or real property that is owned, operated, leased or rented by any public school district or charter school including, but not limited to, any kindergarten, elementary, secondary, or vocational-technical school or charter school, or any motor vehicle owned, operated, leased, rented or subcontracted by any public school or charter school.

10) "School volunteer" means a person 18 years of age or older who, without compensation, renders service to a public or charter school. "School volunteer" includes parents who assist in school activities or chaperone school functions.
(11) "Superintendent" means the superintendent of any public school district or charter school, or the equivalent of a superintendent, or the superintendent's designee.

(12) "Suspension" means either an external or an internal removal of a student from the general school population.

(13) "Violent felony" means a crime designated in § 4201(c) of Title 11.

(14) "Written report" includes printed paper filings and electronic filings that can be printed.

(b) Criminal violation; mandatory reports.

(1) Whenever a school employee has reliable information that would lead a reasonable person to believe that:

a. A student, school volunteer, or a school employee, has been the victim of:
   1. A violent felony,
   2. An assault III, or
   3. An unlawful sexual contact III, which occurred on school property or at a school function; or

b. A student has been the victim of:
   1. A violent felony
   2. An assault III, or
   3. Any sexual offense, as defined in § 761(h) of Title 11, and the offense was committed by another school employee regardless of whether the offense occurred on school property or at a school function; then the school employee who has reliable information that would lead a reasonable person to believe that a crime has been committed shall immediately report the incident to the principal.

(2) The principal must immediately make reasonable efforts to notify the parents of any juvenile victim and must send written notification of the incident to the parents within 3 business days. This paragraph does not apply if the parent is alleged to be the offender.

(3) The principal shall immediately report the incident to the appropriate police agency. The report shall be made by telephone or in person immediately and shall be followed by a written report of the school's investigation within 3 business days.

(4) If the police agency determines that probable cause exists to believe that a crime has been committed, or if the principal later learns that a suspect has been arrested for the offense, then the principal must file a written report of the incident to the Department of Education within 5 days.

(5) Nothing in this section shall preclude a school employee who has reliable information that would lead a reasonable person to believe a crime has been committed from reporting the incident to the principal within a reasonable amount of time. In such instances where a report is made, the school officials shall follow the procedure set forth in paragraphs (b)(2) through (6) of this section. Nothing in this section shall abrogate the reporting requirements for child abuse or sexual abuse set forth in § 903 et seq. of Title 16.

(6) Offenders under the age of 12. When a misdemeanor offense listed in this subsection has allegedly been committed by a child under the age of 12, the principal is not required to notify the appropriate police agency but must file a written report of the incident with the Department of Education within 5 working days. When the alleged offense is a violent felony, the appropriate police agency must be notified by the principal of the incident even when the suspect is under the age of 12.

(7) Sexual harassment. Whenever a school employee has reliable information that would lead a reasonable person to believe that a student has been the victim of sexual harassment, as defined in Title 11, which occurred on school property or at a school function, the harassment must be reported to
the principal, who, immediately after conducting a preliminary investigation to determine if good reason exists to believe that harassment has occurred, must notify the victim's parent of that determination, if the parent is not alleged to be the offender. The principal is not required to notify the appropriate police agency, but must file a written report with the Department of Education.

(b) Under no circumstances shall any person who has supervisory authority over the principal or any school board member exercise any control of, hinder or delay the lodging of any oral or written report required to be made pursuant to this subsection or the forwarding of such report to the Department of Education or the police. A principal (or acting principal if the principal is absent) may not delegate to or rely upon any other person except an assistant principal to make the immediate report to the police. A person with supervisory authority over the principal or any school board member who has knowledge of an incident which is required to be reported under this section, and who has information that would lead a reasonable person to believe that it has not been reported to the police, has an affirmative duty to report the incident to the police immediately. This includes, but is not limited to, incidents in which a school employee is a possible suspect when an administrative review is ongoing.

(c) Student possession of weapons and unlawful drugs. Whenever a school employee has reliable information that would lead a reasonable person to believe that a person on school property or at a school function has on his or her person, concealed in that person's possessions, or placed elsewhere on school property:

(1) Any controlled substance prohibited by Title 16; or

(2) Any deadly weapon, destructive weapon, dangerous instrument or incendiary or explosive device as prohibited by Title 11, the school employee shall immediately report the incident to the principal, who shall conduct a thorough investigation. If the investigation verifies that good reason exists to believe that a crime has been committed, the principal shall immediately notify the appropriate police agency of the incident. If the police agency determines that probable cause exists to believe that a crime has been committed, then the principal shall file a written report of the incident with the Department of Education within 5 working days.

(d) School officials who report a crime committed by a child with a disability, as defined by § 3101(2) of this title, shall comply with 20 U.S.C. § 1415(k)(6)(B) by ensuring that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the crime is reported. An agency reporting a crime under this section may transmit copies of the child's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act [20 U.S.C. § 1232g].

(e) Penalties. Any school employee who fails to report an incident as required by subsection (b) of this section or subsection (c) of this section shall be guilty of a violation and shall be fined not more than $250 for a first offense and not more than $500 for a subsequent offense. Any person with supervisory authority over the principal or any school board member who exercises any control of, hinders or delays the lodging of any report required to be made pursuant to this subsection or the forwarding of such report to the Department of Education or the police shall be guilty of a class B misdemeanor.

(f) Immunity from civil liability; review of criminal complaint. (1) Any school employee who in good faith provides information to a police agency, a principal, a superintendent, or to the Department of Education under subsection (b) of this section or subsection (c) of this section shall not be held civilly liable for providing such information.

(2) Prior to lodging any criminal charge against a school employee for providing information pursuant to subsection (b) of this section or subsection (c) of this section to a police agency, a principal, a superintendent, or to the Department of Education, the Attorney General's office shall be consulted to determine the appropriateness of the charge.
(3) Any report of an actual or suspected crime made by a school employee or principal pursuant to subsection (b) of this section shall be exempt from public disclosure pursuant to the Freedom of Information Act as set forth in Chapter 100 of Title 29.

(g) Confidential list of young student offenders. Following the start of each school year, the Department of Education shall, upon request, provide to the principal of any school a list of the students enrolled in that school for the coming year who committed offenses during the previous year which were reported to the Department of Education pursuant to this section. The list shall remain confidential and shall be used by the principal only for the purpose of identifying students who may be in need of beneficial programs such as mentoring.

(h) A copy of any report required by this section to go to a principal shall be immediately submitted to the superintendent by the principal.

(i) If any report required by this section alleges any wrongdoing involving the principal, the report shall be given to the superintendent and the duties required of the principal by this section shall be the duties of the superintendent.

14 Del.C. §4117. Substance abuse.

(a) Each school district shall designate an administrator in every school as the person responsible for reporting, to parents and/or law enforcement agencies, any violation and/or problems relating to the abuse of controlled substances. Such administrator shall not be liable under the laws of this State for any act or omission committed by the administrator in the performance of that administrator’s duties and responsibilities under this section.

(b) No administrator having reporting responsibilities under this section shall be required to report any substance abuse violation and/or problem to a parent if such person, being the principal of the school, reasonably believes that a parent or parents are a cause of or are involved in the violation and/or problem; nor shall any other administrator, having reporting responsibilities under this section, be required to report any substance abuse violation and/or problem to a parent, if such administrator and the principal of the school both believe that a parent or parents are a cause of or are involved in the violation or problem.

14 Del.C. §4164. School bullying awareness and prevention; criminal youth gang detection.

(g) Relationship to reporting requirements. An incident may meet the definition of bullying and also the definition of a particular crime under state or federal law. Nothing in this section or in the policies promulgated as a result of this section prevents school officials from fulfilling all of the reporting requirements of § 4112 of this title or from reporting probable crimes that occur on school property or at a school function which are not required to be reported under § 4112 of this title. Nothing in this section abrogates the reporting requirements for child abuse or sexual abuse set forth in Chapter 9 of Title 16 or any other reporting requirement under state or federal law.

REGULATIONS

14 DE Admin. Code §612. Possession, use or distribution of drugs and alcohol.

4.0. Requirement of Each School District and Charter School to have a Policy

4.1. Each school district and charter school shall have a policy on file and update it periodically. The policy shall include, at a minimum, the following:

4.1.3. A written policy which sets out procedures for reporting incidents to police authorities, parents, guardians or Relative Caregivers and to the Department of Education, while maintaining confidentiality.
4.1.4. A written policy on how evidence is to be kept, stored and documented, so that the chain of custody is clearly established prior to giving such evidence over to the police.


1.0. Purpose

Pursuant to 14 Del.C. §122(b)(26), this regulation, which applies to all public school districts and charter schools, provides uniform procedures for the following situations: referral of students who warrant consideration for placement outside the Regular School Program into an Alternative Program; placement of students into an Alternative Program; monitoring student progress while in Alternative Placement; return of students back into the Regular School Program from an Alternative Program; Suspensions; and Expulsion hearings.

3.0. Preliminary Discipline Investigation & Reporting Requirements

3.2. Reporting Requirements

3.2.1. If the investigation reveals that there is reliable information that would lead a reasonable person to believe that a mandatorily reportable crime under 14 Del.C. §4112 has been committed, the Principal shall immediately notify the appropriate law enforcement agency of the incident.

3.2.1.1. All reports to the appropriate law enforcement agency must be made immediately by telephone or in person and shall be followed by a written report of the investigation within three (3) business days.

3.2.2. The Principal shall report all offenses listed as a mandatory report to the Department of Education under 14 Del.C. §4112 and 14 DE Admin. Code 601 within five (5) business days of the incident by completing the information in the eSchoolPlus discipline center or successor Delaware Department of Education approved student database management application.

Disclosure of school records

LAW


(a) Educational records of students in all public and private schools in this State are deemed to be confidential. Educational records may be released, and personally identifiable information contained therein disclosed, only in accordance with rules and regulations of the Department of Education. Such rules and regulations shall authorize the release of educational records upon written consent and shall establish the other terms and conditions on which educational records may and must be released.

(b) The provisions of subsection (a) of this section notwithstanding, educational institutions and programs operating in this State, including postsecondary institutions and programs regulated by a state agency, shall disclose to the Department such education records, and personally identifiable information contained therein, necessary for the audit or evaluation of state and federal education programs in accordance with the terms and conditions of a written agreement negotiated between the Department and each educational institution or program from which education records are sought. Such agreements shall:

(1) State the term of the agreement;

(2) Comply with the requirements of the Family Educational Rights and Privacy Act Regulations set forth in 34 CFR Part 99 regarding the Department's use, compilation, maintenance, protection, distribution, re-disclosure and return/destruction of education records obtained hereunder;

(3) Specify the data elements to be disclosed by the educational institution or program;
(4) State the purpose for which the information will be used;
(5) Prohibit any disclosure of education records or personally identifiable information contained therein by an educational institution or program in violation of applicable state or federal privacy laws;
(6) Prohibit any modification or amendment except by written agreement duly executed by the parties; and
(7) Contain such additional provisions as agreed upon.
All disclosures required by this section shall be for the purpose of ensuring the effectiveness of publicly-funded programs by connecting pre-kindergarten through grade 12 and post-secondary data, and sharing information to improve early childhood and workforce programs as set forth in Delaware's State Fiscal Stabilization Plan and Delaware's Race to the Top Plan, or as otherwise approved by the P-20 Council.

c) All public and private schools in this State shall allow parents and eligible students to inspect and review the education records of their children or themselves who are, or have been, in attendance at the school. The right to inspect and review educational records shall be in accordance with rules and regulations of the Department of Education.

d) No cause of action or claim for relief, civil or criminal, shall lie or damages be recoverable against any school officer or employee by reason of such officer's or employee's participation in the formulation of such records or any statements made or of judgments expressed therein concerning a student's academic performance, personal conduct, health, habits, school related activities or potential; nor by reason of the disclosure of the records or personally identifiable information from the records, nor lack of access thereto, in accordance with subsections (a) through (c) of this section.

14 Del.C. §4112B. Ombudsperson access.

(a) The Ombudsperson shall have access to any school record or pupil file which is relevant to the performance of the Ombudsperson's duties, including any record otherwise considered confidential under Delaware law.
(b) The Ombudsperson may initiate an investigation of any criminal offense committed on school property or any incident of bullying independent of the receipt of a specific complaint.
(c) The Ombudsperson shall protect the confidentiality of pupils' records and files as required under Delaware law.
(d) Notwithstanding any other provision of law, the Ombudsperson shall not disclose the identity of any complainant unless a court orders such disclosure or the complainant consents in writing to the disclosure of the complainant's identity.

REGULATIONS

14 DE Admin. Code §252. Required educational records and transfer and maintenance of educational records.

1.0. Definitions
The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly states otherwise:

"Court Orders" means any written direction from a court of competent jurisdiction directed to the student or affecting the student’s care or custody.

"Delaware School Health Record" means the form required by 14 DE Admin Code 811 for Delaware public school students.
“Discipline Record” means information about any and all periods of suspension or of expulsion from the regular school setting imposed on a student as a result of an infraction of the school or district’s code of conduct or other rules.

“Emergency/Nursing Treatment Card” means the card containing the general emergency information and procedures for the care of a student when the student becomes sick or injured in school as required in 14 DE Admin. Code 811.

“Identifying Data” means the name of the student, date of birth, sex, race and ethnicity, address, telephone number, Delaware student identification number and the name of the parent(s), guardian(s) or Relative Caregiver.

“Progress Report” means a single record maintained for each student in kindergarten through grade 8 that contains end of year and up to date grades; standardized test(s) scores such as the state student assessment; and attendance data for each year of the student’s attendance.

“Public School” means a school or charter school having any or all of grades kindergarten through twelve, supported primarily from public funds and under the supervision of public school administrators.

“Student Transcript” means a single record maintained for each student in grades 9 and above that contains the following: end of year and up to date grades; credits earned; class rank; Grade Point Average (GPA); withdrawal or graduation date; standardized test(s) scores such as the state student assessment, SAT, PSAT, ACT; attendance data and school activities. If applicable, a list of the career technical competencies achieved by a student enrolled in a specific career technical program shall also be included.

2.0. Education Records Required by Schools in Delaware

2.1. Each Delaware school shall maintain a Cumulative Record File either as an electronic or paper file for each student enrolled.

2.1.1. The student Cumulative Record File shall contain the Emergency/Nursing Treatment Card, Identifying Data, School Health Record, Progress Report, Student Transcript (for students in grades 9 and above) and Discipline Record.

2.1.2. The student Cumulative Record File shall also contain any Court Orders in the school or district’s possession, and;

2.1.3. The Cumulative Record File for a child with a disability as defined in 14 DE Admin Code 925 or for a child identified under Section 504 shall contain any records related to the identification, evaluation, placement, and provision of a free appropriate public education. Such documents may be collected and maintained separately.

3.0. Transfer of the Records of Public School and Private Schools Students

3.1. When a student transfers from a public school, private school or an educational program operated by the Department of Services for Children, Youth and Their Families to any other school in Delaware, the receiving school shall immediately request the Cumulative Record File from the sending school or program.

3.2. The Cumulative Record File shall follow each student transferred from one school to another including files for each student with disabilities transferred from one school to another.

3.2.1. Public schools, school districts, private schools and educational programs operated by the Department of Services for Children, Youth and Their Families shall promptly transfer a student’s Cumulative Record File upon the request of a receiving school.

3.2.1.1. Public schools and school districts shall maintain the original Cumulative Record File and provide a copy of the file when students transfer to a private school or educational program operated by the Department of Services for Children, Youth and Their Families.
3.2.1.2. Public schools and school districts shall provide the original Cumulative Record File when transferring records to another public school.

3.2.2. Unpaid student fees or fines shall not be a basis for a public school, school district or an educational program operated by the Department of Services for Children, Youth and Their Families to deny or to delay transfer of the Cumulative Record File.

3.2.3. Students shall not be denied enrollment into a public school on the grounds that the student’s Cumulative Record File has not been received.

3.3. Before transferring student records, a public school, school district or private school shall specifically confirm that the Cumulative Record File contains the student’s Discipline Record.

3.4. When students transfer to a Delaware school from any other school including a school in a foreign country the receiving school is responsible for having the transcripts evaluated.

4.0. Maintenance of the Education Records of Public Schools

4.1. The Delaware School District General Records Retention Schedule published by the Delaware Public Archives shall be followed as to the length of time and special considerations for the maintenance of education records.

4.2. Contracts for storage of student records of graduates, withdrawals and special education students shall be initiated between the school district or charter school and the Delaware Public Archives.

4.3. The Cumulative Record Files for students who have graduated from or who left school prior to graduation from high school shall be stored at the school or district of last attendance or in the Delaware Public Archives.

5.0. Destruction of Education Records of Public Schools

5.1. The Delaware School District General Records Retention Schedule published by the Delaware Public Archives shall be followed as to the length of time and special considerations for the destruction of any education records.

5.2. The destruction of educational records of children with disabilities shall also comply with the requirements of 14 DE Admin. Code 927.

Data collection, review, and reporting of disciplinary policies and actions

LAWS

14 Del. C. §703. Student discipline report; school discipline improvement plan.

(a) The Department shall compile and release an annual report on student discipline in all schools as follows:

(1) The analysis must be based on data, as permitted under the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, collected over the 3 most recent consecutive school years.

(2) The report must be posted on the Department’s website no later than October 30.

(3) The report shall include both statewide totals and individual school data, for each of the school years in the report, on the issuance of out-of-school suspensions, expulsions, alternative school assignments, and in-school suspensions, disaggregated by race, ethnicity, gender, grade level, limited English proficiency, incident type, discipline duration, and if the student is identified as having a disability.

(4) The report must identify, for each school year in the report, schools that meet any of the following thresholds:
a. Calculations under this subsection should exclude subgroups that contain fewer than 15 students.
b. A school with an out-of-school suspension rate for all students or any 1 subgroup that exceeds any of the following:
   1. A rate of 20 suspensions per 100 students for the 2018 through 2019 school year.
   2. A rate of 15 suspensions per 100 students for the 2019 through 2020 school year and each school year thereafter.
c. A school for which the out-of-school suspension gap between the lowest-suspended racial subgroup and the highest suspended racial subgroup, or the suspension gap between students with disabilities and students without disabilities, exceeds any of the following:
   1. Twenty percent for the 2018 through 2019 school year.
   2. Fifteen percent for the 2019 through 2020 school year.
   3. Ten percent for the 2020 through 2021 school year and each school year thereafter.

(b) [Subsection (b) effective Dec. 1, 2019] If a school is identified as meeting a threshold under paragraph (a)(4) of this section for 3 consecutive school years, the Department shall notify the school of this status by December 1 and the school must do all of the following:
   (1) Review its discipline policies, practices, and data.
   (2) If a school has already implemented restorative justice practices, the school must review the interventions being used to assure research-based quality, scope of training provided, and follow-up support to assure proper implementation. Restorative justice practices program improvements should be made based on this review.
   (3) Submit a plan to the Department that identifies the strategies the school will implement beginning in the following school year to reduce the use of exclusionary disciplinary practices or disproportionate use of exclusionary disciplinary practices with racial subgroups or students with disabilities, or both.
      a. The plan may be part of their school improvement plan.
      b. The plan must be developed with input from students, parents, educators, administrators, and community stakeholders to incorporate strategies to promote fairness and equity in discipline.
      c. The plan may increase or improve professional development opportunities for educators, administrators, and staff. Components of such professional development may include 1 or more of the following:
         1. Restorative practices.
         2. Trauma informed care.
         3. Implicit bias awareness.
         5. Classroom management.
         6. Other appropriate programming.
      d. The plan must be approved at either a public local school board meeting or a charter school’s public board of directors meeting.
      e. The school must submit the plan to the Department and post the plan on the school’s internet website no later than the beginning of the following school year.
      f. The school shall submit to the Department an annual progress report describing the implementation of the plan and post the progress report on the school’s internet website no later than October 30. The school may cease submitting a progress report when the school does not meet a threshold under paragraph (a)(4) of this section for 3 consecutive years.
(c) The Department may promulgate regulations necessary to implement and enforce this section. The Department must consult with school administrators, parents, educators, and other stakeholders in developing regulations under this section.

14 Del.C. §3807. State Board of Education; Department of Public Safety.
The Department of Safety and Homeland Security and the Department of Education shall both have the power to monitor and evaluate the projects and programs under this chapter, and to make comments and suggestions to the Division.

14 Del.C. §4112F. Limitations on use of seclusion and restraint.
(c) Department of Education role; regulations.
(1) The Department of Education shall promulgate regulations implementing this section. Such regulations shall include, but not be limited to, the following:
   a. Requirement of uniform public school data collection on each use of physical restraint, by school, which includes demographic information on affected students such as age, gender, race, ethnicity, and disability category, if any;
   b. Requirement of timely parental notice in event of use of physical restraint;
(2) To facilitate data collection and analysis, the Department of Education may adopt a uniform reporting document and may require reporting of data in a standardized electronic or nonelectronic format.
(3) The Department of Education shall issue an annual report on use of physical restraint which includes rates of usage by school and by subcategories identified in paragraph (c)(1)a. of this section, identifies trends, and analyzes significant results.
(4) Unless proscribed by federal law, the Secretary of Education may issue a waiver of the prohibition on mechanical restraint and seclusion for an individual student based on compelling justification and subject to specific conditions and safeguards which must include a requirement of continuous visual staff monitoring and parental notice of each use of mechanical restraint or seclusion.

For purposes of this subchapter:
(1) “Bullying” means any intentional written, electronic, verbal, or physical act against another student, a school district or charter school volunteer, or a school district or charter school employee that a reasonable person under the circumstances should know will have any of the following effects:
   a. Place a student, school district or charter school volunteer, or school district or charter school employee in reasonable fear of substantial harm to the student’s, volunteer’s, or employee’s emotional or physical well-being or substantial damages to the student’s, volunteer’s, or employee’s property.
   b. Create a hostile, threatening, humiliating, or abusive educational environment due to the pervasiveness or persistence of actions or due to a power differential between the bully and the target.
   c. Interfere with a student having a safe school environment that is necessary to facilitate educational performance, opportunities, or benefits.
   d. Perpetuate bullying by inciting, soliciting, or coercing an individual or group to demean, dehumanize, embarrass, or cause emotional, psychological, or physical harm to another student, school district or charter school volunteer, or school district or charter school employee.
(2) “Charter school” means a public school established under Chapter 5 of this title.
(3) “Child abuse” means causing or inflicting any of the following on a child:
   a. Sexual abuse.
   b. Serious physical injury or death, or physical injury through unjustified force not permitted under § 468 of Title 11. For purposes of this paragraph (3)b., “serious physical injury” and “physical injury” mean as defined in § 222 of Title 11.
   c. Emotional abuse.
   d. Torture.
   e. Exploitation.
   f. Maltreatment or mistreatment.

(4) “Child sexual abuse”, “sexual abuse”, or “sexually abused” means the commission of any act that is listed in the definition of sexual offense in § 761 of Title 11.

(5) “Consent” means the unambiguous, voluntary, and freely given agreement by all participants in each physical act in the course of sexual activity, including respect for personal boundaries. Consent does not include any of the following:
   a. The lack of verbal or physical resistance or submission resulting from the use of force, threat of force, or placing another individual in fear.
   b. A current or previous dating, social, or sexual relationship.

(6) “Criminal youth gang” means as defined in § 617(a) of Title 11.

(7) “Parent” means a natural parent, an adoptive parent, any person legally charged with the care or custody of a student under 18 years of age, or any person who has assumed responsibility for the care of a student under 18 years of age including any person acting as a caregiver pursuant to the provisions of § 202(f) of this title.

(8) “Personal body safety” means understanding the difference between appropriate and inappropriate touching and how to communicate inappropriate behavior to a trusted adult.

(9) “School district” means a clearly defined geographic subdivision of the State organized for the purpose of administering public education in that area and includes a district specifically created to administer a system of vocational or technical education.

(10) “School district and charter school employee,” “school district or charter school employee,” or “employee” means all individuals, including teachers, school administrators, school support personnel, instructional aides, nurses, school counselors, coaches, custodial staff, and nutrition staff, hired by a school district or charter school or a program established under Chapter 16 of this title, who provide services to students on a regular, ongoing basis. “School district and charter school employee,” “school district or charter school employee,” or “employee” does not include contractors or subcontractors, such as bus drivers or security guards; substitute employees; and individuals hired by or subcontracted by other state agencies to work on school property.

(11) “Sexual assault” means any unwanted sexual behavior committed by a perpetrator who is a stranger to the victim or by a perpetrator who is known by the victim or related to the victim by blood or marriage. “Sexual assault” includes the following behaviors: sexual harassment, as defined in § 763 of Title 11; sexual contact, as defined in § 761 Title 11; sexual intercourse, as defined in § 761 of Title 11; sexual penetration, as defined in § 761 of Title 11; and sexual abuse.

(12) “Teen dating violence” means assaultive, threatening, or controlling behavior, including stalking as defined in § 1312 of Title 11, that one person uses against another person in order to gain or maintain power or control in a current or past relationship and can occur in both heterosexual and same sex relationships and in serious or casual relationships.

(f) Accountability.

(1) Each school district and charter school shall designate an individual responsible for overseeing the implementation of the educational programing provided under subsection (b) of this section. Each school district and charter school shall provide the name and contact information for the individual designated under this subsection to the Department of Education no later than November 15 of each year.

(2) Each individual designated under paragraph (f)(1) of this section shall report to the Department of Education no later than November 15 of each year how the educational programming has been implemented by that individual's school district or charter school.

(3) The Department of Education shall submit a written report to the Governor, the members of the General Assembly, and the Director of the Division of Research no later than January 15 of each year. The report must include the educational programing provided under subsection (b) of this section and how the curriculum has been implemented by each school district and charter school under subsection (d) of this section.

14 Del.C. §4164. School bullying awareness and prevention; criminal youth gang detection.

(c) Dissemination of policy and accountability.

(1) Each school district and charter school shall adopt the policy consistent with subsection (b) of this section and submit a copy to the Department of Education by January 1 of each year, or by January 1 of a newly approved charter school's first year of operation. For purposes of this paragraph, "submit" includes providing access to the policy via the school district's or charter school's website. Each school district and charter school shall submit a revised policy to the Department of Education within 30 calendar days of a school district's or charter school's revision. The Department of Education shall review a policy or a revised policy submitted under this paragraph for compliance with state and federal law.

(2) Each school district and charter school shall include the policy adopted under subsection (b) of this section in the student and staff handbook. If no handbook is available, or if it is not practical to reprint new handbooks, each school district and charter school shall distribute a copy of the policy annually to all students, parents, faculty, and staff. Each school district and charter school shall provide the telephone number of the Department of Justice School Ombudsperson in writing to parents, students, faculty, and staff and provide the telephone number on the school district's or charter school's website and the website of each school in the school district. Each school district shall prominently display the telephone number of the Department of Justice School Ombudsperson in each school in the school district. Each charter school shall prominently display the telephone number of the Department of Justice School Ombudsperson in the school.

(3) [Repealed.]

(4) The Department of Education shall prepare an annual report, which must include a summary of all reported and all substantiated incidences of bullying, a summary of the information gathered under paragraph (b)(2)f. of this section, and the results of audits conducted under paragraph (d)(4) of this section. The Department shall post the report required by this subsection on its website.


(e) Dissemination of policy and accountability.

(1) Each school district and charter school shall adopt a policy consistent with subsection (b) of this section. Following review by the Domestic Violence Coordinating Council, each school district and
charter school shall submit a copy to the Department of Education by January 5, 2015, or by January 5 of a newly approved charter school's first year of operation.

REGULATIONS


7.0 Compliance Component

A school that fails to comply with the reporting mandates as set forth herein shall be subject to identification as a "Persistently Dangerous School" as this term is defined in 14 DE Admin. Code 608. A school identified as Persistently Dangerous will retain that designation for the entire fiscal year.


3.0 Reporting Requirements and Timelines

3.1. Each local school district and charter school shall have an electronic copy of its current student rights and responsibilities policy(s) on file with the Department of Education.

3.2. Each local school district and charter school shall provide an electronic copy of any student rights and responsibilities policy(s) to the Department within ninety (90) days of such revision(s) regardless of whether said revisions were made as a result of changes to Federal, state or local law, regulations, guidance or policies.


1.0 Purpose

The Elementary and Secondary Education Act (ESEA) of 1965, as amended by the Every Student Succeeds Act (ESSA) of 2015, requires that a State Education Agency establish a State Unsafe School Choice Option policy in order to receive funding under ESEA.

2.0 Definitions

In this regulation, the following terms shall have the meanings indicated below:

"Crime" shall have the same meaning as provided in 14 Del.C. §4112.

"Enrolled Students" unless the context indicates otherwise, means all students included in the Delaware Student Information System (DELSIS) report for the year of the data collection.

"Expulsion" means, for purposes of this regulation, the exclusion from the regular school setting for a period determined by the local district board or charter school board not to exceed one year. The process for readmission shall be determined by the local district board or charter school board.

"Firearm" means handgun, rifle, shotgun, or other type of firearm as that term is defined in the federal Gun Free Schools Zone Act at 18 U.S.C.A. §921.

"Fiscal Year" means the period of July 1 through June 30.

"Gun Free Schools Violation" means the prohibited bringing to school, or possession while in school of a firearm by a student.

"Persistently Dangerous School" means a school that has five or more unsafe incidents for every one hundred students enrolled for three consecutive fiscal years.

"Safe School" means a school in the same school district that is not currently identified by the Department of Education as a persistently dangerous school.

"School" means any public school including charter schools. School property shall have the same meaning as provided in 14 Del.C. §4112 (a)(9).
"Suspension" means, for the purpose of this regulation, the external (out of school) removal of a student from the general school population.

"Unsafe Incidents" means any of the following:
- The school suspended or expelled a student for a gun free schools’ violation; or
- The school suspended or expelled a student for a crime committed on school property which is required to be reported under 14 Del.C. §4112; or
- The school reported a crime committed by a non-student on school property that is required to be reported under 14 Del.C. §4112.

"Violent Felony" shall have the same meaning as provided in 11 Del.C. §4201(c).

3.0. Identification of Persistently Dangerous Schools

3.1. The Department of Education shall identify each Persistently Dangerous School using the data reported to it pursuant to the provisions of 14 Del.C. §4112, 14 DE Admin. Code 601, and any expulsion and suspension data as required by the Department.

3.2. Notwithstanding any provision herein to the contrary, any year that a School fails to comply with the reporting mandates, as set forth in 3.1 above, to the Delaware Department of Education or to the appropriate police agency as set forth above, the Department of Education will consider the School as if it otherwise met the criteria to be classified as a Persistently Dangerous School for that year until such time as it may be determined, in the sole discretion of the Department, that the School has met such reporting requirements.

3.3. A School identified as a Persistently Dangerous School will retain that designation for the entire fiscal year.

4.0. Students Attending Schools Labeled as Persistently Dangerous

4.1. A student attending a Persistently Dangerous School shall be allowed to choice to a Safe School in the same school district, including a charter school provided that a charter school option exists in that school district’s boundaries.

4.2. Each public school district having one or more Persistently Dangerous Schools and any charter school identified as a Persistently Dangerous School shall develop a plan and time line that describes the process for notifying parents of the School’s status and for relocating any student who exercises the right to choice to a Safe School. The plan shall also describe the corrective actions that will be implemented. The plan shall be forwarded to the Department of Education no later than September 15th of the year that the School is identified.

5.0. Students Who are Victims of a Violent Felony

5.1. A student who is the victim of a Violent Felony while in or on the grounds of a School in which the student is enrolled shall be allowed to choice to a Safe School in the same school district, including a charter school provided that a charter school option exists in that school district’s boundaries.

5.2. All school districts and charter schools shall establish a plan that describes their policies and procedures for providing school choice options to a student who is the victim of a Violent Felony, including the process for notifying parents.

5.3. Each school district and charter school shall post the policy and procedures on the school district’s or charter school’s website, with hard copies provided to any requesting parties.


6.0. Uniform Data Collection

6.1. When an incident of physical restraint of a student by school personnel occurs:
6.1.1. As soon as practicable thereafter, a reasonable attempt shall be made to interview the student regarding the incident; and

6.1.2. The school principal must provide a written report, in a uniform format as determined by the Department, of the restraint to the Department within seventy-two (72) hours of the restraint, or within seventy-two (72) hours of the time in which the student’s district or charter school of residence receives notice of the restraint from the contracted private program or alternative program, whichever the case may be; and

6.1.3. The written report shall include, at a minimum:

6.1.3.1. Details of the restraint incident, including, but not limited to, the student behavior and description of events leading to the use of physical restraint; de-escalation techniques utilized by school personnel prior to the restraint; a description of the student’s behavior during the restraint; a summary of witness interviews, if applicable; any injury caused to the student, staff member(s), or other student(s); and any related treatment deemed necessary as a result of the restraint.

6.1.3.2. Demographic information on affected students to include age, race, ethnicity, and disability category;

6.1.3.3. A description of the interview conducted with the student, if applicable; and

6.1.3.4. If applicable, a description of changes to any or all of the following that resulted from the restraint incident:

6.1.3.4.1. For a student with a disability as defined in Chapter 31 of Title 14 or 34 C.F.R. Part 104, the student’s IEP, behavioral support, crisis intervention plan, accommodation plan, or any other planning document for the individual student;

6.1.3.4.2. School/LEA policy or procedure; or

6.1.3.4.3. Additional staff training.

7.0. Annual Reporting Requirement

The Department shall issue an annual report on the use of physical restraint, which shall include rates of usage by school and by subcategories identified pursuant to Section 6.0, identify trends, and analyze significant results. The report shall be posted on the Department’s website.

**14 DE Admin. Code §611. Consortium discipline alternative programs for treatment of severe discipline problems.**

6.0. Placement at Consortium Discipline Alternative Program Sites

6.1 Each district shall establish an Alternative Placement Team to review each case and prescribe the appropriate placement for students. The Placement Team, in concert with the Consortium Discipline Alternative Program staff, shall design an Individual Service Plan (ISP) for each student that will include educational goals, behavioral goals, and services needed by both students and their families. The ISP shall include a tentative transition plan.

13.0. Evaluation

The Department of Education shall annually evaluate the effectiveness of the Consortium Discipline Alternative Programs using criteria that includes student demographic data, types of interventions employed, and prior versus subsequent behavioral and academic patterns, parent involvement, agency involvement and recidivism. In addition, the Department of Education shall annually review the decisions acquired pursuant to Section 3.0 to assess the reasons for non-placement of students in the alternative programs, including lack of space and number, age, race and special education status of excluded students by district and charter school. Grantees shall compile and submit data based on uniform standards and format established by the Department.
14 DE Admin. Code §612. Possession, use or distribution of drugs and alcohol.

4.0. Requirement of Each School District and Charter School to have a Policy
   4.1. Each school district and charter school shall have a policy on file and update it periodically.

5.0. Reporting Requirements and Timelines
   5.1. Each local school district and charter school shall have an electronic copy of its current possession, use and distribution of Drugs and Alcohol policy on file with the Department of Education.
   5.2. When a local school district or charter school revises its possession, use, and distribution of Drugs and Alcohol policy, it shall notify the Department of Education of the revised policy within thirty (30) days of the revision, even if the revision was made because of changes in federal, state or local law, regulations, guidance or policies.


1.0. Purpose
   Pursuant to 14 Del.C. §122(b)(26), this regulation, which applies to all public school districts and charter schools, provides uniform procedures for the following situations: referral of students who warrant consideration for placement outside the Regular School Program into an Alternative Program; placement of students into an Alternative Program; monitoring student progress while in Alternative Placement; return of students back into the Regular School Program from an Alternative Program; Suspensions; and Expulsion hearings.

3.0. Preliminary Discipline Investigation & Reporting Requirements
   3.2. Reporting Requirements
      3.2.2. The Principal shall report all offenses listed as a mandatory report to the Department of Education under 14 Del.C. §4112 and 14 DE Admin. Code 601 within five (5) business days of the incident by completing the information in the eSchoolPlus discipline center or successor Delaware Department of Education approved student database management application.
School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

LAWS
No relevant laws found.

REGULATIONS
No relevant regulations found.

Certification or training

LAWS
No relevant laws found.

REGULATIONS
No relevant regulations found.

MOUs, authorization, and/or funding

LAWS
No relevant laws found.

REGULATIONS


3.0. Written Policy and Memorandum of Agreement (MOA)

3.1. All local school districts, charter schools, and Alternative Programs shall establish a written policy on effectively communicating and working with law enforcement agencies. Each school district, charter school and Alternative Program shall develop a Memorandum of Agreement (MOA) with each law enforcement agency which provides services to it. Each MOA shall be in a form substantially similar to a Model MOA as developed, approved and from time to time revised by the Department of Education.

3.2. The Department shall review the Model MOA and each school district, charter school, or Alternative Program shall review its current MOA at least once every three years.
State Education Agency Support

State model policies and implementation support

LAWS


For purposes of this subchapter:

(1) “Bullying” means any intentional written, electronic, verbal, or physical act against another student, a school district or charter school volunteer, or a school district or charter school employee that a reasonable person under the circumstances should know will have any of the following effects:

a. Place a student, school district or charter school volunteer, or school district or charter school employee in reasonable fear of substantial harm to the student's, volunteer's, or employee's emotional or physical well-being or substantial damages to the student's, volunteer's, or employee's property.

b. Create a hostile, threatening, humiliating, or abusive educational environment due to the pervasiveness or persistence of actions or due to a power differential between the bully and the target.

c. Interfere with a student having a safe school environment that is necessary to facilitate educational performance, opportunities, or benefits.

d. Perpetuate bullying by inciting, soliciting, or coercing an individual or group to demean, dehumanize, embarrass, or cause emotional, psychological, or physical harm to another student, school district or charter school volunteer, or school district or charter school employee.

(2) “Charter school” means a public school established under Chapter 5 of this title.

(3) “Child abuse” means causing or inflicting any of the following on a child:

a. Sexual abuse.

b. Serious physical injury or death, or physical injury through unjustified force not permitted under § 468 of Title 11. For purposes of this paragraph (3)b., “serious physical injury” and “physical injury” mean as defined in § 222 of Title 11.

c. Emotional abuse.

d. Torture.

e. Exploitation.

f. Maltreatment or mistreatment.

(4) “Child sexual abuse”, “sexual abuse”, or “sexually abused” means the commission of any act that is listed in the definition of sexual offense in § 761 of Title 11.

(5) “Consent” means the unambiguous, voluntary, and freely given agreement by all participants in each physical act in the course of sexual activity, including respect for personal boundaries. Consent does not include any of the following:

a. The lack of verbal or physical resistance or submission resulting from the use of force, threat of force, or placing another individual in fear.

b. A current or previous dating, social, or sexual relationship.

(6) “Criminal youth gang” means as defined in § 617(a) of Title 11.

(7) “Parent” means a natural parent, an adoptive parent, any person legally charged with the care or custody of a student under 18 years of age, or any person who has assumed responsibility for the care
of a student under 18 years of age including any person acting as a caregiver pursuant to the provisions of § 202(f) of this title.

(8) “Personal body safety” means understanding the difference between appropriate and inappropriate touching and how to communicate inappropriate behavior to a trusted adult.

(9) “School district” means a clearly defined geographic subdivision of the State organized for the purpose of administering public education in that area and includes a district specifically created to administer a system of vocational or technical education.

(10) “School district and charter school employee,” “school district or charter school employee,” or “employee” means all individuals, including teachers, school administrators, school support personnel, instructional aides, nurses, school counselors, coaches, custodial staff, and nutrition staff, hired by a school district or charter school or a program established under Chapter 16 of this title, who provide services to students on a regular, ongoing basis. “School district and charter school employee,” “school district or charter school employee,” or “employee” does not include contractors or subcontractors, such as bus drivers or security guards; substitute employees; and individuals hired by or subcontracted by other state agencies to work on school property.

(11) “Sexual assault” means any unwanted sexual behavior committed by a perpetrator who is a stranger to the victim or by a perpetrator who is known by the victim or related to the victim by blood or marriage. “Sexual assault” includes the following behaviors: sexual harassment, as defined in § 763 of Title 11; sexual contact, as defined in § 761 Title 11; sexual intercourse, as defined in § 761 of Title 11; sexual penetration, as defined in § 761 of Title 11; and sexual abuse.

(12) “Teen dating violence” means a assaultive, threatening, or controlling behavior, including stalking as defined in § 1312 of Title 11, that one person uses against another person in order to gain or maintain power or control in a current or past relationship and can occur in both heterosexual and same sex relationships and in serious or casual relationships.

14 Del.C. § 4164. School bullying awareness and prevention; criminal youth gang detection.
(d) Duties of the Department of Education.

(1) The Department of Education shall collaborate with the Department of Justice to identify and maintain a model policy that is applicable to kindergarten through grade 12, and post this policy, along with the contact information for the School Ombudsperson, on their websites in order to assist the school districts and charter schools. In addition, the Department of Education shall promulgate a uniform cyberbullying policy, which shall be based upon a model prepared by the Department of Justice and public comment upon that model. Each school district and charter school shall adopt the Department’s uniform cyberbullying policy within 90 days of the policy becoming final.

(4) The Department of Education shall conduct random audits of schools to insure compliance with paragraphs (b)(2)i. and (b)(2)k. of this section. The Department shall report the results of these audits annually in the report required by paragraph (c)(4) of this section.

REGULATIONS

4.0. Training Component

4.1. Any school administrator responsible for reporting school crimes or reporting school conduct incidents to law enforcement and to the Department of Education; or any school administrator responsible for reporting suspension and expulsion data to the Department; or any school administrator responsible for any disciplinary process involving staff or students shall complete Department of
Education approved training and any such additional training the Department of Education may prescribe from time to time.

4.2. The approved training shall be primarily provided by staff at the Department of Education. The training may be provided by a school administrator at the district, charter school, or Alternative Program who is qualified to provide such training by having completed the Department of Education approved training within the last twenty-four (24) months. The district, charter school, or Alternative Program shall provide the name(s) of the trainer(s) conducting the training and the name(s) of those school administrator(s) attending the training if such training was provided by the district, charter school, or Alternative Program.

4.3. Each school district, charter school, and Alternative Program shall, at the time of hiring and at the beginning of each school year thereafter, advise each School Employee of his/her duty to report school crimes and the penalty for failure to so report as prescribed in 14 Del.C. §4112 (e).

Funding appropriations

LAWS


The General Assembly shall annually provide an appropriation for the operation of the Comprehensive School Discipline Improvement Program in the budget appropriation bill. From the funds appropriated, the Department may allocate funds to the public school districts for the financial support of various components of the program.

14 Del.C. §1605A. Prevention component.

(1) The Council shall issue prevention funding to local school districts proposing to establish an integrated plan to deliver prevention services including, but not limited to, academic tutoring and student mentoring programs to provide at-risk students with the extra help they may need to succeed academically and with positive adult role models; outreach programs to promote parental, family and community involvement in students’ academic studies and in reducing and resolving school discipline problems; school-linked support services to help students with family or health problems that may be adversely affecting their academic performance and their conduct at school; training to help students and school personnel resolve conflicts peacefully and non-disruptively; and assistance to help teachers better manage the behavior of students in their classrooms.

(3) The Council shall provide technical assistance to districts preparing applications and ongoing assistance to districts awarded funding pursuant to this section.

14 Del.C. §3803. Division of Substance Abuse and Mental Health.

(a) The Division of Substance Abuse and Mental Health shall allocate and award all funds appropriated for any purposes set forth in § 3801 and elsewhere in this chapter. Such funds shall be awarded only to programs or projects, undertaken jointly by a law enforcement entity and a local school district or other public school entity, to prevent and/or suppress substance abuse and the trafficking of prohibited or controlled substances in the public schools. All applications for such funds shall be applications made jointly by the school and law enforcement entities involved in the proposed project.

(b) In the allocation and awarding of funds to joint law enforcement and public school recipients, the Division shall obtain the comments and recommendations of the State Drug-free School Advisory Committee. All allocation and awarding of funds by the Division shall be in accordance with the Administrative Procedures Act, and with those guidelines promulgated by the State Drug-free School Advisory Committee which do not conflict with existing state laws.
(c) Each application shall be accompanied by a fiscal note, prepared by the joint applicants, which sets forth all anticipated first-year costs and the anticipated total costs of the project or program. The Division may return any application to the applicant with a request that any or all expenses be more fully set out, together with the applicant's explanations or reasons for each projected cost or expense.


(a) All criteria for the rating of applications for funds under this chapter shall be developed by the State Drug-free School Advisory Committee. The State Drug-free School Advisory Committee shall be composed of 16 members appointed by the Governor: 1 police chief; 1 sheriff; 1 prosecutor from the State Department of Justice who specializes in drug and/or alcohol cases; 1 attorney primarily engaged in criminal defense; 1 person from each county appointed by an active parent group or community-based group concerned primarily with drug and/or alcohol problems; 1 representative of the Division of Substance Abuse and Mental Health; 1 county drug and/or alcohol program administrator; and a permanent, full-time member of a drug treatment clinic or office, public or private. In addition, membership shall include the Attorney General or the Attorney General's designee; 4 members who are professional employees of the Department of Education, 1 of whom shall be the Secretary of Education; and a drug and/or alcohol prevention professional employed by the Department of Education. The Committee shall review applications made to the Division for those funds which are awarded pursuant to this chapter, and shall recommend approval for those applications which the Committee deems appropriate, and which it deems are consistent with the guidelines and procedures established pursuant to this chapter. The Division shall not approve nor release any funds until approval under § 3805(b) of this title is first obtained.

(b) The State Drug-free School Advisory Committee shall develop specific guidelines and procedures which shall set forth the terms and conditions upon which grants of funds are made. Funds disbursed under this chapter shall not be used for the acquisition of equipment.

(c) Funds disbursed under this chapter shall not be used to pay informants for information on drug and/or alcohol offenders. Not more than 10 percent of the total amount of funds disbursed under this chapter shall be used for administrative costs.

14 Del.C. §3805. Local drug-free school advisory committees.

(a) A local drug-free school advisory committee may be established and appointed by each local board of education. Such committee may be either a newly created committee, or an existing local drug and alcohol abuse committee formerly established by the county, municipality or school district. Although the committee may have additional members, its basic membership shall be composed of the following residents of the district or area affected:

1. One local law enforcement officer;
2. An administrator or teacher, employed by the local school district, who has expertise in drug and alcohol programs;
3. One administrator and 1 teacher from the school or school district which has direct involvement in the program;
4. One parent who has a son or daughter enrolled in the school;
5. Three high school students;
6. One person who is a permanent full-time employee of the state, county or municipality, and whose duties primarily involve drug education or treatment;
7. Any other person who is involved, by employment or as a volunteer, in any drug and/or alcohol prevention program.
(b) No project or program, financed in whole or in part with funds under this chapter, shall begin in any school until such project or program has first received the approval of the local drug-free school advisory committee.


(a) Funds shall be awarded primarily for projects undertaken jointly by the school district or other public school entity, and a law enforcement entity. In participating in any joint application for the funds, the public school entity shall consult with the superintendent of each affected school. Any funds disbursed under this chapter are supplemental to and shall not supplant local funds which would, in the absence of this chapter, be otherwise available to suppress and prevent drug and alcohol abuse among school age children, or which otherwise would be used to curtail drug and alcohol trafficking in and around schools, parks and playgrounds.

(b) When applying for funds under this chapter, the local law enforcement entity and the public school entity may jointly enter into those agreements between themselves which would allow and facilitate the administrative, fiscal and operational responsibilities created by their joint project or program.

(c) Funds disbursed under the provisions of this chapter shall be utilized primarily for enhanced apprehension, prevention, and education efforts, and for obtaining material and information resources relating to drug and alcohol abuse and drug trafficking in and around schools, parks and playgrounds. Enhanced apprehension, prevention and education efforts shall include, but are not limited to:

1. Drug and alcohol trafficking intervention programs;

2. School and classroom oriented programs, each of which shall utilize a tested drug and alcohol education curriculum that provides in-depth and accurate information on drugs and alcohol. Such programs may include the participation of local law enforcement agencies and/or qualified drug and alcohol use prevention specialists. Each such program shall be designed to increase, in both teachers and students, an awareness of the dangers of drugs and alcohol;

3. Family-oriented programs aimed at preventing drug and alcohol abuse, which programs may include the participation of any community-based organization which is experienced in the successful operation of a family-oriented program;

4. Development and distribution of appropriate written and audio-visual aids for the training of persons not otherwise trained or experienced in the handling of drug and alcohol-related problems and offenses within the public schools;

5. Development of prevention and intervention programs for elementary school teachers and students, including utilization of existing prevention and intervention programs, where appropriate;

6. Development of a coordinated intervention system that identifies "at-risk" students, and students with chronic drug and alcohol abuse problems.

14 Del.C. §4164. School bullying awareness and prevention; criminal youth gang detection.

(d) Duties of the Department of Education.

2. Distribution of the Comprehensive School Discipline Improvement Program funds to a school district and charter school provided in the General Appropriations Act starting in fiscal year 2009 and thereafter is contingent upon Department of Education approval of the school district's or charter school's bullying prevention policy.

3. To the extent that funding is available, the Department of Education shall provide for an award system for schools with exemplary programs based on criteria promulgated by the Department.
REGULATIONS


2.0. Application for Funding

2.1. Any school district requesting an incentive or supplemental grant to provide intervention services shall apply for such funds using the LEA Consolidated Application process provided by the Department of Education.

2.2. Any incentive or supplemental grant approved as part of the LEA Consolidated Application process shall be in the amount appropriated for that purpose by law.
Professional immunity or liability

**LAWs**

14 Del.C. §701. Authority of teachers and administrators to control the disruptive behavior of students.

(i) No teacher who purports to have acted pursuant to the teacher's rights established by this chapter shall be found liable for civil damages arising from that action unless that teacher's conduct shocks the conscience.


(f) Immunity from civil liability; review of criminal complaint. (1) Any school employee who in good faith provides information to a police agency, a principal, a superintendent, or to the Department of Education under subsection (b) of this section or subsection (c) of this section shall not be held civilly liable for providing such information.

(2) Prior to lodging any criminal charge against a school employee for providing information pursuant to subsection (b) of this section or subsection (c) of this section to a police agency, a principal, a superintendent, or to the Department of Education, the Attorney General's office shall be consulted to determine the appropriateness of the charge.

(3) Any report of an actual or suspected crime made by a school employee or principal pursuant to subsection (b) of this section shall be exempt from public disclosure pursuant to the Freedom of Information Act as set forth in Chapter 100 of Title 29.

14 Del.C. §4112C. Good faith immunity.

Persons and agencies participating in an investigation of the Ombudsperson shall be immune from civil liability which may result from their good faith participation in such investigation.

14 Del.C. §4112E. Teen dating violence and sexual assault awareness and prevention.

(f) Immunity. A school district or charter school employee, school district or charter school volunteer, or student is individually immune from a cause of action for damages arising from reporting teen dating violence or sexual assault in good faith and to the appropriate person using the procedures specified in the school district's or charter school's teen dating violence and sexual assault policy, but there is no such immunity if the act of reporting constituted gross negligence or reckless, willful, or intentional conduct.

14 Del.C. §4164. School bullying awareness and prevention; criminal youth gang detection.

(e) Immunity. A school district or charter school employee, school district or charter school volunteer, or student is individually immune from a cause of action for damages arising from reporting bullying in good faith and to the appropriate person using the procedures specified in the school district's or charter school's bullying prevention policy, but there is no such immunity if the act of reporting constituted gross negligence or reckless, willful, or intentional conduct.

14 Del.C. §4165. Suicide awareness and prevention.

(e) Immunity. A school district or charter school employee, school district or charter school volunteer, or student is individually immune from a cause of action for damages arising from reporting warning signs of suicide to the appropriate person using the procedures specified in the school district's or charter school's
suicide prevention policy, but there is no such immunity if the act of reporting constituted gross negligence or reckless, willful, or intentional conduct.

REGULATIONS
No relevant regulations found.

Community input or involvement

LAWS

The Department of Education shall establish a program component which will provide alternative educational and related services for the more severe discipline problems in the public schools. This component will serve primarily secondary school students, including but not limited to: youngsters who have been expelled from regular schools, students who may be subject to expulsion, and others who have serious violations of the local school district discipline code. The Department of Education shall provide rules and regulations for the conduct of programs authorized under this section subject to the following limitations:

(1) School districts shall make application to the Department of Education for funding to implement programs authorized under this section. Preference shall be given to applications from consortia of school districts. To the extent feasible, programs offered under this component should serve eligible pupils within a county, however, multiple sites may be operated by a single consortia of school districts within a county.

(2) Any application submitted under this section shall specify the types and level of services to be provided and an estimate of the number of youngsters to be served. The application shall also include a budget of proposed expenditures during a fiscal year. That budget shall indicate, at a minimum, the funds being requested from appropriations authorized under this section and funds to be obtained from all other sources.

(3) All applications submitted to the Department of Education under this section shall indicate an agreement to fund at least 30 percent of the total cost of services provided from sources of funding other than those authorized under this section.

(4) All projects funded under this section shall submit an annual evaluation report on the effectiveness of the program to the Department of Education. Such report shall incorporate the data and information specified by the Department.

(5) School districts shall be permitted to use funds collected in accordance with the provisions of Chapter 6 of this title to make tuition payments for youngsters assigned to programs authorized under this section.

(6) Nothing in this section shall prohibit a consortia of school districts from contracting for educational or related services with public or private agencies when operating programs authorized under this section.

(7) The provisions of § 4130 of this title shall not apply to youngsters enrolled in programs authorized under this section.

(8) A student 16 years of age or less who is expelled or suspended pending expulsion by a local school district or charter school shall be presumed appropriate for placement in a Consortium Discipline Alternative Program site, provided the student is not otherwise ineligible by statute or regulation for placement in such a program. The burden of establishing that a student is not appropriate for placement in a Consortium Discipline Alternative Program shall be on the local school district or charter school.
Any student not shown by preponderance of evidence to be inappropriate for placement in a Consortium Discipline Alternative Program shall be placed in such a program.

14 Del.C. §1604A. Site selection for alternative educational facilities.

(a) New alternative school programs funded on or after July 1, 2002, or alternative school programs except for those located on school property currently funded pursuant to § 1604 of this title that change locations on or after July 1, 2002, shall be subject to the following process:

1. The school district or consortium of school districts shall notify by mail the Secretary of Education and every property owner located within 200 feet of the site's boundary lines that there is a plan to establish an alternative educational facility for children exhibiting discipline problems on the site. The notice must include the date, time and location of an informational meeting that will explain the details of the site, facility and program plans.

2. The school district or consortium of school districts shall notify city council members and state legislators who represent residents of the school district in which the proposed site is located and the chief elected official of the county and town or city in which the proposed site is located. Further, the school district or consortium of school districts shall publish public notice of the time, date and location of the informational meeting once a week for 2 weeks in a newspaper in general circulation in the school district of the proposed site selection.

3. Written comments shall be directed to the superintendent of the district in which the facility is to be located within 10 business days of the informational meeting.

   a. If there are objections to the proposed site by at least 5 citizens who reside within 200 feet of the site or by at least 25 citizens who reside within the school district in which the site is located, the local school board shall hold a special public meeting to consider the concerns of the community and the responses of the school district or consortium of school districts proposing the facility site.

   b. The local school board shall take action on the proposed site at its next regularly scheduled meeting after the informational meeting or special public meeting, whichever occurs last. The decision by the local school board is final and not subject to appeal.

(b) This section does not apply to a facility site that is located in a public school building or on the grounds of a public school building or on land owned by a reorganized school district, vocational-technical school district or charter school.

14 Del.C. §1605. School and district level component.

The Department of Education shall be authorized to approve and provide financial support for programs to provide alternative educational and related services to disruptive students in the public schools. This component will serve students, in schools enrolling pupils in grades K through 12, who are causing repeated disruptions in the regular classes to which they are assigned. Services may be delivered in a variety of modes with students assigned to the specific programs for short- or long-term assistance. Programs authorized under this section could also serve as a transition for youngsters returning from programs operated under the provisions of § 1604 of this title. The Department of Education shall provide rules and regulations for the conduct of programs authorized under this section subject to the following limitations:

1. School districts shall be permitted to use personnel authorized by any of the provisions of this title to establish alternative educational and related service programs for disruptive students. Such personnel shall continue to be paid in accordance with salary schedules specified in Chapter 13 of this title.

2. In the event that a school district uses personnel authorized under various sections of this title to establish and operate a program for disruptive students, the district may elect to employ 2 service
paraprofessionals or 2 instructional paraprofessionals, paid in accordance with § 1324 of this title, in lieu of 1 staff member paid in accordance with § 1305 of this title.

(3) Any school which either enrolls pupils in at least 2 of the grades 3 through 12 or enrolls pupils solely in 1 or more of grades K through 3, and which establishes a program for disruptive students in accordance with the provisions of this section and the rules and regulations of the Department of Education may make application to the Department for an incentive grant to help defray the cost of operating such program. No school may qualify for more than 1 incentive grant per fiscal year, and all applications for such grants must have the prior approval of the board of education of the school district in which the applicant school is located. The maximum dollar value of an incentive grant shall be specified in the annual budget appropriation bill. Funds available to the Department of Education shall be allocated on a competitive basis if in any fiscal year more schools are eligible for funding than there are funds appropriated for the incentive grants.

(4) Funds provided to a school under an incentive grant provided under paragraph (3) of this section may be used for any purpose that Division I or II funds may be used, provided, however, that such funds shall not be used to pay salaries to employees beyond the state-supported salaries specified in Chapter 13 of this title.

(5) To achieve the most cost-effective impact from the incentive funds authorized by this section and to increase the coordination of services by schools and other governmental and nongovernmental social service agencies consistent with § 1607 of this title, schools and school districts shall consider contracting for educational or related goods and services with the State Departments of Services for Children, Youth and Their Families and Health and Social Services, and other governmental and nongovernmental social service agencies using funds authorized by this section. Each school filing a report pursuant to paragraph (6) of this section shall include information regarding the provisions of this paragraph (5).

(6) All schools receiving an incentive grant pursuant to paragraph (3) of this section shall submit an annual evaluation report on the effectiveness of the program to the Department of Education. The report shall be in a format and shall include the data and information specified by the Department.

(7) To receive a supplemental grant greater than the dollar amount for base grants funded in support of programs defined in this section by the annual budget act, schools shall establish a site-based committee in the school to govern discipline matters and shall meet the criteria set forth in this subdivision. Supplemental grants shall be available for grades 7, 8, 9 and 10 only. The annual budget act shall establish the dollar amount of such supplemental grants. Before issuing funding pursuant to this paragraph, the Department shall determine that the school's application meets the following criteria:

   a. The grant application must certify that the majority of the members of the school level committee are members of the school professional staff, of which a majority shall be instructional staff; that the committee contains representatives of the support staff, student body (for schools enrolling students, grades 7 through 12), parents and the community; that representatives of the employee groups are chosen by members of each respective group and representatives of the nonemployee groups are appointed by the local board of education; and that the committee operates on the 1-person, 1-vote principle for reaching all decisions.
   
   b. The grant application must certify that the committee has the authority, within established local district budgetary guidelines and at its sole discretion, to:

      1. Establish a school code of conduct which defines the roles and responsibilities of all members of the school community (administrators, teachers, support staff, contracted service personnel, students, families and child/family advocates) and which is consistent with the established state and federal laws, state and federal regulations, local board policies, local district codes of conduct and local district budgetary guidelines, unless relevant waivers have been granted.
2. Hear concerns from a staff member dissatisfied with the disposition of any disciplinary matter by the school administration;

3. Refer students to programs defined in § 1604 of this title; provided, however, that any child with disabilities be referred to such programs through the child's Individualized Education Plan;

4. Design, approve and oversee the implementation of programs established in the school as defined in this chapter;

5 Establish and enforce the school's attendance policy, including mandating attendance in programs established in paragraph (7) b.7. of this section;

6 Establish extended day, week or year programs, for students with discipline or attendance problems, or at risk of academic failure, that provide for the assessment of penalties for violations of school discipline or attendance policies and for academic acceleration and tutoring, mentoring and counseling services for such students and their families as an integral program component;

7 Establish staff development programs for conflict resolution for all school staff, and establish programs in classroom and behavioral management for schools staff identified as needing improvement;

8 Design student mentoring, conflict resolution and/or peer counseling programs for all students, especially for those who are identified as having chronic discipline, academic or attendance problems.

14 Del.C. § 1605A. Prevention component.

The Family Services Cabinet Council (Council), with the Department of Education and the Department of Services for Children, Youth and Their Families acting as lead agencies, shall administer a program to offer prevention-related student support services (prevention services) to students to prevent them from becoming discipline problems and from failing academically in our schools. Within the limits of appropriations made for this purpose, the Council shall provide rules and regulations for the award of prevention grants and the conduct of prevention programs authorized under this section, subject to the following limitations:

(1) The Council shall issue prevention funding to local school districts proposing to establish an integrated plan to deliver prevention services including, but not limited to, academic tutoring and student mentoring programs to provide at-risk students with the extra help they may need to succeed academically and with positive adult role models; outreach programs to promote parental, family and community involvement in students' academic studies and in reducing and resolving school discipline problems; school-linked support services to help students with family or health problems that may be adversely affecting their academic performance and their conduct at school; training to help students and school personnel resolve conflicts peacefully and non-disruptively; and assistance to help teachers better manage the behavior of students in their classrooms.

(2) Applications for funding pursuant to this section shall be made by school districts in accordance with procedures and standards established by the Council. Each applicant shall set forth an integrated plan to provide prevention services consistent with paragraph (1) of this section. To avoid duplication of effort, maximize the impact of limited resources, and increase the effect of efforts by state, local, community and private, nonprofit agencies through increased coordination and cooperation, the Council shall give preference to applications which:

a. Are submitted by 2 or more school districts working in concert, where appropriate;

b. Include private, nonprofit agencies and community organizations as partners in the application, and identify the roles those agencies and organizations are to play in delivering prevention services in the community;
c. Indicate how grants from the federal government and foundations will be used or sought to help deliver prevention services in the community; and

d. Identify the roles state and local agencies are to play in delivering prevention services in the community.

(3) The Council shall provide technical assistance to districts preparing applications and ongoing assistance to districts awarded funding pursuant to this section.

(4) The Council shall establish a timetable for the award of grants pursuant to this section which shall provide, at minimum, for a period of 1 month for joint planning between the Council and the applicants that the Council selects as finalists eligible for a funding award. During such joint planning, the Council and the applicant shall refine the applicant's prevention plan, ensure that the plan makes cost-effective use of the resources and services of state, local, community and private, nonprofit agencies, and consider the incorporation of successful elements of other districts' prevention programs into the applicant's plans. Final awards shall be made by the Council on or before January 15 of each year for the subsequent school year, contingent upon the appropriation of funds for such purpose in the annual appropriations act.


(a) All criteria for the rating of applications for funds under this chapter shall be developed by the State Drug-free School Advisory Committee. The State Drug-free School Advisory Committee shall be composed of 16 members appointed by the Governor: 1 police chief; 1 sheriff; 1 prosecutor from the State Department of Justice who specializes in drug and/or alcohol cases; 1 attorney primarily engaged in criminal defense; 1 person from each county appointed by an active parent group or community-based group concerned primarily with drug and/or alcohol problems; 1 representative of the Division of Substance Abuse and Mental Health; 1 county drug and/or alcohol program administrator; and a permanent, full-time member of a drug treatment clinic or office, public or private. In addition, membership shall include the Attorney General or the Attorney General's designee; 4 members who are professional employees of the Department of Education, 1 of whom shall be the Secretary of Education; and a drug and/or alcohol prevention professional employed by the Department of Education. The Committee shall review applications made to the Division for those funds which are awarded pursuant to this chapter, and shall recommend approval for those applications which the Committee deems appropriate, and which it deems are consistent with the guidelines and procedures established pursuant to this chapter. The Division shall not approve nor release any funds until approval under § 3805(b) of this title is first obtained.

(b) The State Drug-free School Advisory Committee shall develop specific guidelines and procedures which shall set forth the terms and conditions upon which grants of funds are made. Funds disbursed under this chapter shall not be used for the acquisition of equipment.

(c) Funds disbursed under this chapter shall not be used to pay informants for information on drug and/or alcohol offenders. Not more than 10 percent of the total amount of funds disbursed under this chapter shall be used for administrative costs.

14 Del.C. §3805. Local drug-free school advisory committees.

(a) A local drug-free school advisory committee may be established and appointed by each local board of education. Such committee may be either a newly created committee, or an existing local drug and alcohol abuse committee formerly established by the county, municipality or school district. Although the committee may have additional members, its basic membership shall be composed of the following residents of the district or area affected:

(1) One local law enforcement officer;
(2) An administrator or teacher, employed by the local school district, who has expertise in drug and alcohol programs;

(3) One administrator and 1 teacher from the school or school district which has direct involvement in the program;

(4) One parent who has a son or daughter enrolled in the school;

(5) Three high school students;

(6) One person who is a permanent full-time employee of the state, county or municipality, and whose duties primarily involve drug education or treatment;

(7) Any other person who is involved, by employment or as a volunteer, in any drug and/or alcohol prevention program.

(b) No project or program, financed in whole or in part with funds under this chapter, shall begin in any school until such project or program has first received the approval of the local drug-free school advisory committee.

14 Del.C. § 4164. School bullying awareness and prevention; criminal youth gang detection.

(b) Prohibition of bullying.

(2) Each school district and charter school shall establish a policy which, at a minimum, includes the following components:

d. A requirement that each school establish a site-based committee that is responsible for coordinating the school's bully prevention program including the design, approval, and monitoring of the program. A majority of the members of the site-based committee must be members of the school professional staff, of which a majority must be instructional staff. The committee also shall contain representatives of the administrative staff, support staff, student body (for a school enrolling students in grades 7 through 12), parents, and staff from the before- or after-school program or programs. These representatives shall be chosen by members of each respective group, except that the school principal shall appoint the representatives of the nonemployee groups. The committee shall operate on a 1-person, 1-vote principle. If a site-based school discipline committee has been established under § 1605(7)a. and b. of this title, that committee shall vote whether to accept the responsibilities of this paragraph (b)(2)d.

REGULATIONS
No relevant regulations found.

Other or Uncategorized

LAWS
No relevant laws found.

REGULATIONS


1.0. Definitions

The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

“Diversity” in a school community means it embraces and builds on the strengths of individual and group differences, and by so doing enriches the educational program for all students. The curriculum is
inclusive of many racial, ethnic, regional, religious, linguistic, and socioeconomic groups, gives visibility to both women and men, to people of all ages, and to persons with disabilities, and affirms the richness of our pluralistic society. The Secretary of Education believes that students achieve their best in classrooms where diversity is commonplace.

"Success Plan" means the web-based document submitted to the Department of Education as part of the request for state and federal funds that provides the mission, goals, objectives, measures, and strategies of the district or school. 12 DE Reg. 1203 (03/01/09)

2.0. Each School District Shall

2.1. Infuse information on diverse cultural groups throughout the K to 12 curriculum in order to equip students with the knowledge and skills necessary to participate productively in a culturally diverse society.

2.2. Provide professional development to equip all teachers with various instructional techniques and best practices.

2.3. Describe in district success plans and school success plans how disparities and gaps in student achievement associated with the student’s gender, race, ethnicity, socioeconomic status, limited English proficiency, or disability will be identified and eliminated.

2.4. Provide student counseling, assessment, discipline and placement that is sensitive to the needs of diverse populations.

2.5. Provide appropriate instruction to limited English proficient students so that they will have success in a mainstream classroom where the medium of instruction is English.

2.6. Describe in the district success plan a strategy to attract and retain a highly skilled and committed faculty and staff reflective of the diversity in the school community.

2.7. Enact measures to avoid and address inequitable and prejudicial behaviors among employees and students.

2.8. Describe in the school success plans specific ways principals and building staff create an atmosphere which recognizes, accepts and values diversity as a positive, integral resource of a democratic society. 2 DE Reg. 1244 (1/1/99) 7 DE Reg. 1177 (3/1/04) 12 DE Reg. 1203 (03/01/09)
State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Delaware provide additional context to state policy and regulations and, in some cases, may support the readers’ efforts to provide a positive disciplinary school climate.

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<th>Title</th>
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<td><strong>Website</strong></td>
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<tr>
<td>Delaware Positive Behavior Support Project, University of Delaware College of Education &amp; Human Development</td>
<td>Serves as a technical assistance (TA) center for the Delaware Department of Education to provide statewide professional development, TA and coaching to Delaware educators to implement Positive Behavior Support (PBS) as a multi-tiered system of support (MTSS).</td>
<td><a href="http://wh1.oet.udel.edu/pbs/">http://wh1.oet.udel.edu/pbs/</a></td>
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<tr>
<td>School Climate and Discipline, Delaware Department of Education (DDOE)</td>
<td>Provides information and weblinks to best practices and other resources to assist Delaware public schools in their efforts to provide every student with a safe, secure and supportive learning environment.</td>
<td><a href="https://www.doe.k12.de.us/domain/470">https://www.doe.k12.de.us/domain/470</a></td>
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<td>School Climate and Discipline - Best Practices, DDOE</td>
<td>Provides information on best practices in school climate and discipline, including links to resources and training on the trauma-informed compassionate schools model, character education, restorative practices, and teaching tolerance.</td>
<td><a href="https://www.doe.k12.de.us/Page/3313">https://www.doe.k12.de.us/Page/3313</a></td>
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<td>School Climate and Discipline - Bullying, DDOE</td>
<td>Provides information and weblinks to district bullying prevention policies, frequently asked questions (FAQs), reporting forms, laws and regulations, and resources and training materials.</td>
<td><a href="https://www.doe.k12.de.us/Page/3311">https://www.doe.k12.de.us/Page/3311</a></td>
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<td>School Climate and Discipline - School Safety, DDOE</td>
<td>Provides an overview of the Comprehensive School Safety Program and links resources, training, reports, forms, and laws and regulations related to school safety.</td>
<td><a href="https://www.doe.k12.de.us/Page/3314">https://www.doe.k12.de.us/Page/3314</a></td>
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<td><strong>School Climate and Discipline</strong></td>
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<td><strong>Documents</strong></td>
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<td><strong>Other Resources</strong></td>
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<td>Bullying Allegations and Incidents Reported in Delaware Public Schools (November 2019), DDOE</td>
<td>Statewide annual report summarizing data on the number of alleged and substantiated bullying incidents, the results of random district audits assessing policy compliance, and the number of substantiated incidents by enumerated reason.</td>
<td><a href="https://www.doe.k12.de.us/cms/lib/DE01922744/Centricity/Domain/470/FINAL%202018%202019%20Bullying%20Report.pdf">https://www.doe.k12.de.us/cms/lib/DE01922744/Centricity/Domain/470/FINAL%202018%202019%20Bullying%20Report.pdf</a></td>
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<tr>
<td>Delaware Report Card, DDOE</td>
<td>Education data dashboard with searchable district and school report cards presenting data on range of educational indicators including enrollment, attendance, and student behavior (i.e., expulsions, in-school and out-of-school suspension and incidents of violence).</td>
<td><a href="https://reportcard.doe.k12.de.us/">https://reportcard.doe.k12.de.us/</a></td>
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<td>Title</td>
<td>Description</td>
<td>Website address (if applicable)</td>
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<tr>
<td>Due Process Calculator Worksheet, DDOE</td>
<td>Tool designed to assist school administrators in meeting required building- and district-level due process requirements.</td>
<td><a href="https://www.doe.k12.de.us/Page/3370">https://www.doe.k12.de.us/Page/3370</a></td>
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<tr>
<td>School Climate and Discipline Non-Academic Mandatory Training, DDOE</td>
<td>Mandatory training curricula required under Delaware law and DDOE regulation for school personnel related to school climate &amp; discipline programming:</td>
<td></td>
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<tr>
<td></td>
<td>• Bullying Prevention</td>
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<td></td>
<td>• Gang Identification</td>
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<tr>
<td></td>
<td>• Child Abuse Reporting</td>
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<td>• Restraint Reporting</td>
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<td>• Teen Dating Violence</td>
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<td><a href="https://www.doe.k12.de.us/Page/3324">https://www.doe.k12.de.us/Page/3324</a></td>
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