



New York 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 (NCSSE). 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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General Provisions

Authority to develop and establish rules of conduct

LAWS

13. Policies and guidelines.

The board of education and the trustees or sole trustee of every school district shall create policies, procedures and guidelines [...]

2503-a. Powers of boards of education to ban fraternities, sororities and other secret societies.

1. In its discretion, the board of education of each school district, may adopt rules and regulations to abolish and/or prohibit any fraternity, sorority or other secret society in any secondary school under its jurisdiction.

2554-a. Powers of boards of education to ban fraternities, sororities and other secret societies.

1. In its discretion, the board of education of each school district, may adopt rules and regulations to abolish and/or prohibit any fraternity, sorority or other secret society in any secondary school under its jurisdiction.

2801. Codes of conduct on school property.

2. The board of education or the trustees, as defined in section two of this chapter, of every school district within the state, however created, and every board of cooperative educational services and county vocational extension board, shall adopt and amend, as appropriate, a code of conduct for the maintenance of order on school property, including a school function, which shall govern the conduct of students, teachers and other school personnel as well as visitors and shall provide for the enforcement thereof. Such policy may be adopted by the school board or trustees only after at least one public hearing that provides for the participation of school personnel, parents, students and any other interested parties.

2802. Uniform violent incident reporting system.

1. The commissioner, in conjunction with the division of criminal justice services, shall promulgate regulations defining "violent or disruptive incidents" for the purposes of this section.

2. The commissioner, in conjunction with the division of criminal justice services, shall establish a statewide uniform violent incident reporting system which public school districts, boards of cooperative educational services and county vocational education and extension boards shall follow.

REGULATIONS

8 CRR-NY 100.2 (l)(1) School conduct and discipline.

1. Policy on school conduct and discipline.

i. On or before January 1, 1986 each school district shall adopt and implement a written policy on school conduct and discipline designed to promote responsible behavior, which policy, and any amendments thereto, shall remain in effect until the adoption of a code of conduct pursuant to paragraph (2) of this subdivision, at which time it shall be deemed to be superseded by such code of conduct. The City School District of the City of New York shall adopt and implement a separate written policy for each community school district and for central board-administered programs...

8 CRR-NY 100.2 (l)(2) Code of conduct.

i. On or before July 1, 2001, each board of education and board of cooperative educational services shall adopt and provide for the enforcement of a written code of conduct for the maintenance of order on school property and at school functions, as defined in Education Law, sections 11(1) and (2) and 2801(1), which shall govern the conduct of students, teachers, other school personnel, and visitors. Such a code shall be developed in collaboration with student, teacher, administrator, and parent organizations, school safety personnel and other school personnel and shall be approved by the board of education, or other governing body, or by the chancellor of the city school district in the case of the City School District of the City of New York. The City School District of the City of New York shall adopt a district-wide code of conduct and each community school district may, upon approval of the chancellor, adopt and implement additional policies, which are consistent with the city school district's district-wide code of conduct, to reflect the individual needs of each community school district. A school district or board of cooperative educational services shall adopt its code of conduct only after at least one public hearing that provides for the participation of school personnel, parents, students and any other interested parties.

Scope

LAWS

11. Definitions.

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

1. "School property" shall mean in or within any building, structure, athletic playing field, playground, parking lot, or land contained within the real property boundary line of a public elementary or secondary school; or in or on a school bus, as defined in section one hundred forty-two of the vehicle and traffic law.
2. "School function" shall mean a school-sponsored extra-curricular event or activity.

12. Discrimination and harassment prohibited.

1. No student shall be subjected to harassment by employees or students on school property or at a school function; nor shall any student be subjected to discrimination based on a person's actual or perceived race, color, disability, sexual orientation, gender, or sex by school employees or students on school property or at a school function. Nothing in this subdivision shall be construed to prohibit a denial of admission into or exclusion from, a course of instruction based on a person's gender; that would be permissible under section thirty-two hundred one-a or paragraph (a) of subdivision two of section twenty-eight hundred fifty-four of this chapter and Title IX of the Education Amendments of 1972 (20 U.S.C. section 1681, et seq), or to prohibit, as discrimination based on disability, actions that would be permissible under section 504 of the Rehabilitation Act of 1973.

14. Commissioner's responsibilities.

The commissioner shall:

4. Provide guidance and educational materials to school districts related to best practices in addressing cyberbullying and helping families and communities work cooperatively with schools in addressing cyberbullying, whether on or off school property or at or away from a school function.

2801. Codes of conduct on school property.

1. For purposes of this section, school property means in or within any building, structure, athletic playing field, playground, parking lot or land contained within the real property boundary line of a public elementary or secondary school; or in or on a school bus, as defined in section one hundred forty-two of

the vehicle and traffic law; and a school function shall mean a school-sponsored or school-authorized extra-curricular event or activity regardless of where such event or activity takes place, including any event or activity that may take place in another state.

Such code of conduct shall include, at a minimum:

- a. provisions regarding conduct, dress and language deemed appropriate and acceptable on school property, including a school function, and conduct, dress and language deemed unacceptable and inappropriate on school property, including a school function, and provisions regarding acceptable civil and respectful treatment of teachers, school administrators, other school personnel, students and visitors on school property, including a school function, including the appropriate range of disciplinary measures which may be imposed for violation of such code, and the roles of teachers, administrators, other school personnel, the board of education and parents;

REGULATIONS

8 CRR-NY 100.2 (l)(2) Code of conduct.

ii. The code of conduct shall include, but is not limited to:

- a. provisions regarding conduct, dress and language deemed appropriate and acceptable on school property and at school functions, and conduct, dress and language deemed unacceptable and inappropriate on school property and provisions regarding acceptable civil and respectful treatment of teachers, school administrators, other school personnel, students and visitors on school property and at school functions, including the appropriate range of disciplinary measures which may be imposed for violation of such code, and the roles of teachers, administrators, other school personnel, the board of education and parents;

Communication of policy

LAWS

12. Discrimination and harassment prohibited.

2. An age-appropriate version of the policy outlined in subdivision one of this section, written in plain-language, shall be included in the code of conduct adopted by boards of education and the trustees or sole trustee pursuant to section twenty-eight hundred one of this chapter and a summary of such policy shall be included in any summaries required by such section twenty-eight hundred one”.

13. Policies and guidelines.

The board of education and the trustees or sole trustee of every school district shall create policies and guidelines that shall include, but not be limited to:

1. Policies and procedures intended to create a school environment that is free from harassment, bullying and discrimination, that include but are not limited to provisions which:
 - k. require each school, at least once during each school year, to provide all school employees, students and parents with a written or electronic copy of the school district's policies created pursuant to this section, or a plain-language summary thereof, including notification of the process by which students, parents and school employees may report harassment, bullying and discrimination. This subdivision shall not be construed to require additional distribution of such policies and guidelines if they are otherwise distributed to school employees, students and parents;
 - l. maintain current versions of the school district's policies created pursuant to this section on the school district's internet website, if one exists;

2801. Codes of conduct on school property.

4. The board of education, chancellor or other governing body shall provide copies of a summary of the code of conduct to all students at a general assembly held at the beginning of the school year and shall make copies of the code available to persons in parental relation to students at the beginning of each school year, and shall mail a plain language summary of such code to all persons in parental relation to students before the beginning of each school year, and make it available thereafter upon request. The board of education, chancellor or other governing body shall take reasonable steps to ensure community awareness of the code provisions.

REGULATIONS

8 CRR-NY 100.2 (l)(1) School conduct and discipline.

1. Policy on school conduct and discipline.

i. On or before January 1, 1986 each school district shall adopt and implement a written policy on school conduct and discipline ... and shall include:

a. a bill of rights and responsibilities of students which focuses upon positive student behavior, and which shall be publicized and explained to all students on an annual basis;

b. a discipline code for student behavior setting forth prohibited student conduct and the range of penalties which may be imposed for violation of such code, which shall be publicized and explained to all students and provided in writing to all parents on an annual basis. Such code shall describe the roles of teachers, administrators, board of education members, and parents;

ii. The board of education shall adopt such a policy and review it on an annual basis and amend it when appropriate. Each school district's policy on school conduct and discipline shall be filed in each school building and shall be available for review by any individual.

8 CRR-NY 100.2 (l)(2) Code of conduct.

ii. The code of conduct shall include, but is not limited to:

q. a bill of rights and responsibilities of students which focuses upon positive student behavior and a safe and supportive school climate, which shall be written in plain-language, publicized and explained in an age-appropriate manner to all students on an annual basis; and

iii. Additional responsibilities.

b. Each board of education and board of cooperative educational services shall ensure community awareness of its code of conduct by:

1. posting the complete code of conduct, respectively, on the Internet web site, if any, of the school or school district, or of the board of cooperative educational services, including any annual updates to the code made pursuant to clause (a) of this subparagraph and any other amendments to the code;

2. providing copies of a summary of the code of conduct to all students, in an age-appropriate version, written in plain-language, at a school assembly to be held at the beginning of each school year;

3. providing a plain language summary of the code of conduct to all persons in parental relation to students before the beginning of each school year and making such summary available thereafter upon request;

4. providing each existing teacher with a copy of the complete code of conduct and a copy of any amendments to the code as soon as practicable following initial adoption or amendment of the code, and providing new teachers with a complete copy of the current code upon their employment; and

5. making complete copies available for review by students, parents or other persons in parental relation to students, other school staff and other community members.

In-School Discipline

Use of multi-tiered discipline approaches

LAWS

13. Policies and guidelines.

The board of education and the trustees or sole trustee of every school district shall create policies and guidelines that shall include, but not be limited to:

4. Guidelines relating to the development of measured, balanced and age-appropriate responses to instances of harassment, bullying or discrimination by students, with remedies and procedures following a progressive model that make appropriate use of intervention, discipline and education, vary in method according to the nature of the behavior, the developmental age of the student and the student's history of problem behaviors, and are consistent with the district's code of conduct.

14. Commissioner's responsibilities.

The commissioner shall:

3. Promulgate regulations to assist school districts in implementing this article including, but not limited to, regulations to assist school districts in developing measured, balanced, and age-appropriate responses to violations of this policy, with remedies and procedures following a progressive model that make appropriate use of intervention, discipline and education and provide guidance related to the application of regulations;

REGULATIONS

8 CRR-NY 100.2 (l)(1) School conduct and discipline.

1. Policy on school conduct and discipline.

- i. On or before January 1, 1986 each school district shall adopt and implement a written policy on school conduct and discipline ... and shall include:
 - b. a discipline code for student behavior setting forth prohibited student conduct and the range of penalties which may be imposed for violation of such code, which shall be publicized and explained to all students and provided in writing to all parents on an annual basis. Such code shall describe the roles of teachers, administrators, board of education members, and parents;

8 CRR-NY 100.2 (l)(2) Code of conduct.

ii. The code of conduct shall include, but is not limited to:

- a. provisions regarding conduct, dress and language deemed appropriate and acceptable on school property and at school functions, and conduct, dress and language deemed unacceptable and inappropriate on school property and provisions regarding acceptable civil and respectful treatment of teachers, school administrators, other school personnel, students and visitors on school property and at school functions, including the appropriate range of disciplinary measures which may be imposed for violation of such code, and the roles of teachers, administrators, other school personnel, the board of education and parents;

Teacher authority to remove students from classrooms

LAWS

2801. Codes of conduct on school property.

2. The board of education or the trustees, as defined in section two of this chapter, of every school district within the state, however created, and every board of cooperative educational services and county vocational extension board, shall adopt and amend, as appropriate, a code of conduct for the maintenance of order on school property, including a school function, which shall govern the conduct of students, teachers and other school personnel as well as visitors and shall provide for the enforcement thereof... Such code of conduct shall include, at a minimum:

- c. provisions for the removal from the classroom and from school property, including a school function, of students and other persons who violate the code;
- e. provisions for detention, suspension and removal from the classroom of students, consistent with section thirty-two hundred fourteen of this chapter and other applicable federal, state and local laws including provisions for the school authorities to establish policies and procedures to ensure the provision of continued educational programming and activities for students removed from the classroom, placed in detention, or suspended from school;

3214. Student placement, suspensions and transfers.

3-a. Teacher removal of a disruptive pupil. In addition, any teacher shall have the power and authority to remove a disruptive pupil, as defined in subdivision two-a of this section, from such teacher's classroom consistent with discipline measures contained in the code of conduct adopted by the board pursuant to section twenty-eight hundred one of this chapter. The school authorities of any school district shall establish policies and procedures to ensure the provision of continued educational programming and activities for students removed from the classroom pursuant to this subdivision and provided further that nothing in this subdivision shall authorize the removal of a pupil in violation of any state or federal law or regulation. No pupil shall return to the classroom until the principal makes a final determination pursuant to paragraph c of this subdivision, or the period of removal expires, whichever is less.

- a. Such teacher shall inform the pupil and the school principal of the reasons for the removal. If the teacher finds that the pupil's continued presence in the classroom does not pose a continuing danger to persons or property and does not present an ongoing threat of disruption to the academic process, the teacher shall, prior to removing the student from the classroom, provide the student with an explanation of the basis for the removal and allow the pupil to informally present the pupil's version of relevant events. In all other cases, the teacher shall provide the pupil with an explanation of the basis for the removal and an informal opportunity to be heard within twenty-four hours of the pupil's removal.

REGULATIONS

8 CRR-NY 100.2 (l)(1) School conduct and discipline.

1. Policy on school conduct and discipline.

- i. On or before January 1, 1986 each school district shall adopt and implement a written policy on school conduct and discipline ... and shall include:
 - f. disciplinary measures for violation of the school policies developed in accordance with subparagraphs (ii) and (iii) of this paragraph. Such measures shall be appropriate to the seriousness of the offense and where applicable to the previous disciplinary record of the student. Any suspension

from attendance upon instruction may be imposed only in accordance with section 3214 of the Education Law;

8 CRR-NY 100.2 (l)(2) Code of conduct.

ii. The code of conduct shall include, but is not limited to:

d. provisions for the removal from the classroom and from school property and school functions of students and other persons who violate the code;

e. provisions prescribing the period for which a disruptive pupil may be removed from the classroom for each incident, provided that no such pupil shall return to the classroom until the principal makes a final determination pursuant to Education Law section 3214(3-a)(c), or the period of removal expires, whichever is less;

h. provisions for detention, suspension and removal from the classroom of students, consistent with Education Law section 3214 and other applicable Federal, State and local laws including provisions for the school authorities to establish policies and procedures to ensure the provision of continued educational programming and activities for students removed from the classroom, placed in detention, or suspended from school, which shall include alternative educational programs appropriate to individual student needs;

Alternatives to suspension

LAWS

3214. Student placement, suspensions and transfers.

3. Suspension of a pupil.

e. Procedure after suspension. Where a pupil has been suspended pursuant to this subdivision and said pupil is of compulsory attendance age, immediate steps shall be taken for his or her attendance upon instruction elsewhere or for supervision or detention of said pupil pursuant to the provisions of article seven of the family court act. Where a pupil has been suspended or cause, the suspension may be revoked by the board of education whenever it appears to be for the best interest of the school and the pupil to do so. The board of education may also condition a student's early return to school and suspension revocation on the pupil's voluntary participation in counseling or specialized classes, including anger management or dispute resolution, where applicable.

REGULATIONS

No relevant regulations found.

Use of corporal punishment

LAWS

No relevant laws found.

REGULATIONS

8 CRR-NY 19.5. Prohibition of corporal punishment and aversive interventions.

(a) Prohibition of corporal punishment.

(1) No teacher, administrator, officer, employee or agent of a school district in this State, a board of cooperative educational services (BOCES), a charter school, State-operated or State-supported school,

an approved preschool program, an approved private school, an approved out-of-state day or residential school, or a registered nonpublic nursery, kindergarten, elementary or secondary school in this State, shall use corporal punishment against a pupil.

(2) As used in this section, corporal punishment means any act of physical force upon a pupil for the purpose of punishing that pupil, except as otherwise provided in paragraph (3) of this subdivision.

(3) In situations in which alternative procedures and methods not involving the use of physical force cannot reasonably be employed, nothing contained in this section shall be construed to prohibit the use of reasonable physical force for the following purposes:

- (i) to protect oneself from physical injury;
- (ii) to protect another pupil or teacher or any person from physical injury;
- (iii) to protect the property of the school, school district or others; or
- (iv) to restrain or remove a pupil whose behavior is interfering with the orderly exercise and performance of school or school district functions, powers and duties, if that pupil has refused to comply with a request to refrain from further disruptive acts.

(b) Prohibition of the use of aversive interventions.

(1) No public school, BOCES, charter school, approved preschool program, approved private school, State-operated or State-supported school in this State, approved out-of-state day or residential school, or registered nonpublic nursery, kindergarten, elementary or secondary school in this State shall employ the use of aversive behavioral interventions to reduce or eliminate maladaptive behaviors, except as provided pursuant to section 200.22(e) and (f) of this Title.

(2) As used in this section, aversive intervention means: an intervention that is intended to induce pain or discomfort to a student for the purpose of eliminating or reducing maladaptive behaviors, including such interventions as:

- (i) contingent application of noxious, painful, intrusive stimuli or activities; strangling, shoving, deep muscle squeezes or other similar stimuli;
- (ii) any form of noxious, painful or intrusive spray, inhalant or tastes;
- (iii) contingent food programs that include the denial or delay of the provision of meals or intentionally altering staple food or drink in order to make it distasteful;
- (iv) movement limitation used as a punishment, including but not limited to helmets and mechanical restraint devices; or
- (v) other stimuli or actions similar to the interventions described in subparagraphs (i) through (iv) of this paragraph.

The term does not include such interventions as voice control, limited to loud, firm commands; time-limited ignoring of a specific behavior; token fines as part of a token economy system; brief physical prompts to interrupt or prevent a specific behavior; interventions medically necessary for the treatment or protection of the student; or other similar interventions.

8 CRR-NY 100.2 (l)(3). Corporal punishment.

i. The term corporal punishment, as used in this section, shall mean any act of physical force upon a pupil for the purpose of punishing that pupil. Such term, as used in this section, shall not mean the use of reasonable physical force for any of the following purposes:

- a. to protect oneself from physical injury;
- b. to protect another pupil or teacher or any other person from physical injury;
- c. to protect the property of the school or of others; or

d. to restrain or remove a pupil whose behavior is interfering with the orderly exercise and performance of school district functions, powers or duties, if that pupil has refused to comply with a request to refrain from further disruptive acts; provided that alternative procedures and methods not involving the use of physical force cannot reasonably be employed to achieve the purposes set forth in clauses (a) through (d) of this subparagraph.

ii. In every school district and supervisory district, the trustee, trustees, board of education or board of cooperative educational services, shall submit a written semiannual report to the Commissioner of Education, by January 15th and July 15th of each year, commencing July 1, 1985, setting forth the substance of each complaint about the use of corporal punishment received by the local school authorities during the reporting period, the results of each investigation, and the action, if any, taken by the school authorities in each case.

Use of student and locker searches

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Other in-school disciplinary approaches

LAWS

No relevant laws found.

REGULATIONS

8 CRR-NY 100.2 (l)(2) Code of conduct.

ii. The code of conduct shall include, but is not limited to:

h. provisions for detention, suspension and removal from the classroom of students, consistent with Education Law section 3214 and other applicable Federal, State and local laws including provisions for the school authorities to establish policies and procedures to ensure the provision of continued educational programming and activities for students removed from the classroom, placed in detention, or suspended from school, which shall include alternative educational programs appropriate to individual student needs;

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

Grounds for possible suspension or expulsion

LAWS

3214. Student placement, suspensions and transfers.

3. Suspension of a pupil.

a. The board of education, board of trustees or sole trustee, the superintendent of schools, district superintendent of schools or principal of a school may suspend the following pupils from required attendance upon instruction: A pupil who is insubordinate or disorderly or violent or disruptive, or whose conduct otherwise endangers the safety, morals, health or welfare of others.

5. Involuntary transfers of pupils who have not been determined to be a student with a disability or a student presumed to have a disability for discipline purposes.

a. The board of education, board of trustees or sole trustee, the superintendent of schools, or district superintendent of schools may transfer a pupil who has not been determined to be a student with a disability as defined in section forty-four hundred one of this chapter, or a student presumed to have a disability for discipline purposes as defined in paragraph g of subdivision three of this section from regular classroom instruction to an appropriate educational setting in another school upon the written recommendation of the school principal and following independent review thereof. For purposes of this section of the law, "involuntary transfer" does not include a transfer made by a school district as part of a plan to reduce racial imbalance within the schools or as a change in school attendance zones or geographical boundaries.

b. A school principal may initiate a non-requested transfer where it is believed that such a pupil would benefit from the transfer, or when the pupil would receive an adequate and appropriate education in another school program or facility.

No recommendation for pupil transfer shall be initiated by the principal until such pupil and a person in parental relation has been sent written notification of the consideration of transfer recommendation. Such notice shall set a time and place of an informal conference with the principal and shall inform such person in parental relation and such pupil of their right to be accompanied by counsel or an individual of their choice.

REGULATIONS

No relevant regulations found.

Grounds for mandatory suspension or expulsion

LAWS

3214. Student placement, suspensions and transfers.

3. Suspension of a pupil.

d. Consistent with the federal gun-free schools act of nineteen hundred ninety-four, any public school pupil who is determined under this subdivision to have brought a weapon to school shall be suspended for a period of not less than one calendar year and any nonpublic school pupil participating in a program operated by a public school district using funds from the elementary and secondary education act of

nineteen hundred sixty-five who is determined under this subdivision to have brought a weapon to a public school or other premises used by the school district to provide such programs shall be suspended for a period of not less than one calendar year from participation in such program. The procedures of this subdivision shall apply to such a suspension of a nonpublic pupil. A superintendent of schools, district superintendent of schools or community superintendent shall have the authority to modify this suspension requirement for each student on a case-by-case basis. The determination of a superintendent shall be subject to review by the board of education pursuant to paragraph c of this subdivision and the commissioner pursuant to section three hundred ten of this chapter. Nothing in this subdivision shall be deemed to authorize the suspension of a student with a disability in violation of the individuals with disabilities education act or article eighty-nine of this chapter. A superintendent shall refer the pupil under the age of sixteen who has been determined to have brought a weapon to school in violation of this subdivision to a presentment agency for a juvenile delinquency proceeding consistent with article three of the family court act except a student fourteen or fifteen years of age who qualifies for juvenile offender status under subdivision forty-two of section 1.20 of the criminal procedure law. A superintendent shall refer any pupil sixteen years of age or older or a student fourteen or fifteen years of age who qualifies for juvenile offender status under subdivision forty-two of section 1.20 of the criminal procedure law, who has been determined to have brought a weapon to school in violation of this subdivision to the appropriate law enforcement officials.

REGULATIONS

No relevant regulations found.

Limitations, conditions or exclusions for use of suspension and expulsion

LAWS

3214. Student placement, suspensions and transfers.

3. Suspension of a pupil.

b. (1) The board of education, board of trustees, or sole trustee, superintendent of schools, district superintendent of schools and the principal of the school where the pupil attends shall have the power to suspend a pupil for a period not to exceed five school days. In the case of such a suspension, the suspending authority shall provide the pupil with notice of the charged misconduct. If the pupil denies the misconduct, the suspending authority shall provide an explanation of the basis for the suspension. The pupil and the person in parental relation to the pupil shall, on request, be given an opportunity for an informal conference with the principal at which the pupil and/or person in parental relation shall be authorized to present the pupil's version of the event and to ask questions of the complaining witnesses. The aforesaid notice and opportunity for an informal conference shall take place prior to suspension of the pupil unless the pupil's presence in the school poses a continuing danger to persons or property or an ongoing threat of disruption to the academic process, in which case the pupil's notice and opportunity for an informal conference shall take place as soon after the suspension as is reasonably practicable.

(2) A teacher shall immediately report and refer a violent pupil to the principal or superintendent for a violation of the code of conduct and a minimum suspension period pursuant to section twenty-eight hundred one of this chapter.

c. (1) No pupil may be suspended for a period in excess of five school days unless such pupil and the person in parental relation to such pupil shall have had an opportunity for a fair hearing, upon

reasonable notice, at which such pupil shall have the right of representation by counsel, with the right to question witnesses against such pupil and to present witnesses and other evidence on his behalf. Where a pupil has been suspended in accordance with this subdivision by a superintendent of schools, district superintendent of schools, or community superintendent, the superintendent shall personally hear and determine the proceeding or may, in his discretion, designate a hearing officer to conduct the hearing. The hearing officer shall be authorized to administer oaths and to issue subpoenas in conjunction with the proceeding before him. A record of the hearing shall be maintained, but no stenographic transcript shall be required, and a tape recording shall be deemed a satisfactory record. The hearing officer shall make findings of fact and recommendations as to the appropriate measure of discipline to the superintendent. The report of the hearing officer shall be advisory only, and the superintendent may accept all or any part thereof. An appeal will lie from the decision of the superintendent to the board of education who shall make its decision solely upon the record before it. The board may adopt in whole or in part the decision of the superintendent of schools. Where the basis for the suspension is, in whole or in part, the possession on school grounds or school property by the student of any firearm, rifle, shotgun, dagger, dangerous knife, dirk, razor, stiletto or any of the weapons, instruments or appliances specified in subdivision one of section 265.01 of the penal law, the hearing officer or superintendent shall not be barred from considering the admissibility of such weapon, instrument or appliance as evidence, notwithstanding a determination by a court in a criminal or juvenile delinquency proceeding that the recovery of such weapon, instrument or appliance was the result of an unlawful search or seizure.

(2) Where a pupil has been suspended in accordance with this section by a board of education, the board may in its discretion hear and determine the proceeding or appoint a hearing officer who shall have the same powers and duties with respect to the board that a hearing officer has with respect to a superintendent where the suspension was ordered by him. The findings and recommendations of the hearing officer conducting the proceeding shall be advisory and subject to final action by the board of education, each member of which shall before voting review the testimony and acquaint himself with the evidence in the case. The board may reject, confirm or modify the conclusions of the hearing officer.

g. Discipline of students with disabilities and students presumed to have a disability for discipline purposes.

(1) Notwithstanding any other provision of this subdivision to the contrary, a student with a disability as such term is defined in section forty-four hundred one of this chapter and a student presumed to have a disability for discipline purposes, may be suspended or removed from his or her current educational placement for violation of school rules only in accordance with the procedures established in this section, the regulations of the commissioner implementing this paragraph, and subsection (k) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statute, as such federal law and regulations are from time to time amended. Nothing in this paragraph shall be construed to confer greater rights on such students than are conferred under applicable federal law and regulations, or to limit the ability of a school district to change the educational placement of a student with a disability in accordance with the procedures in article eighty-nine of this chapter.

(2) As used in this paragraph, a "student presumed to have a disability for discipline purposes" shall mean a student who the school district is deemed to have knowledge was a student with a disability before the behavior that precipitated disciplinary action under the criteria in subsection (k)(8) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statute.

(3) In applying the federal law consistent with this section:

(i) in the event of a conflict between the procedures established in this section and those established in subsection (k) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statute, such federal statute and regulations shall govern.

(ii) the trustees or board of education of any school district, a district superintendent of schools or a building principal shall have authority to order the placement of a student with a disability into an appropriate interim alternative educational setting, another setting or suspension for a period not to exceed five consecutive school days where such student is suspended pursuant to this subdivision and, except as otherwise provided in clause (vi) of this subparagraph, the suspension does not result in a change in placement under federal law.

(iii) the superintendent of schools of a school district, either directly or upon recommendation of a hearing officer designated pursuant to paragraph c of this subdivision, may order the placement of a student with a disability into an interim alternative educational setting, another setting or suspension for up to ten consecutive school days, inclusive of any period in which the student is placed in an appropriate interim alternative educational placement, another setting or suspension pursuant to clause (ii) of this subparagraph for the behavior, where the superintendent determines in accordance with the procedures set forth in this subdivision that the student has engaged in behavior that warrants a suspension, and, except as otherwise provided in clause (vi) of this subparagraph, the suspension does not result in a change in placement under federal law.

(iv) the superintendent of schools of a school district, either directly or upon recommendation of a hearing officer designated pursuant to paragraph c of this subdivision, may order the change in placement of a student with a disability to an interim alternative educational setting for up to forty-five days, but not to exceed the period of suspension ordered by a superintendent in accordance with this subdivision, under the circumstances specified in subsection (k)(1) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statute.

(v) the terms "day," "business day," and "school day" shall be as defined in section 300.9 of title thirty-four of the code of federal regulations.

(vi) notwithstanding any other provision of this subdivision to the contrary, upon a determination by the committee on special education that the behavior of a student with a disability was not a manifestation of the student's disability, such student may be disciplined pursuant to this section in the same manner as a nondisabled student, except that such student shall continue to receive services to the extent required under federal law and regulations.

(vii) an impartial hearing officer appointed pursuant to subdivision one of section forty-four hundred four of this chapter may order a change in placement of a student with a disability to an appropriate interim alternative educational setting for not more than forty-five days under the circumstances specified in subsections (k)(2) and (k)(7) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statutes, provided that such procedure may be repeated, as necessary.

(viii) nothing in this section shall be construed to authorize the suspension or removal of a student with a disability from his or her current educational placement for violation of school rules following a determination by the committee on special education that the behavior is a manifestation of the student's disability, except as authorized under federal law and regulations.

(ix) the commissioner shall implement this paragraph by adopting regulations which coordinate the procedures required for discipline of students with disabilities, and students presumed to have a disability for discipline purposes, pursuant to subsection (k) of section fourteen hundred fifteen of

title twenty of the United States code and the federal regulations implementing such statute, with the general procedures for student discipline under this section.

4402. Duties of school districts.

1.b. (3) The committee or when applicable the subcommittee shall:

(i) Provide, to the extent appropriate to the individual needs of the student with a disability that such student is educated in a setting with students who are nondisabled.

* (i) In accordance with the regulations of the commissioner and subsection (k) of section fourteen hundred fifteen of title twenty of the United States code and the implementing federal regulations, to develop a functional behavioral assessment plan, to review, or revise, as appropriate, a behavioral intervention plan, to develop appropriate behavioral interventions and to review and revise, as appropriate, the implementation of a behavioral intervention plan, to address the behavior of a student with a disability who is alleged to have engaged in misconduct, to the extent required by federal law and regulations.

* NB Effective June 30, 2021

* (j) In accordance with the regulations of the commissioner and subsection (k) of section fourteen hundred fifteen of title twenty of the United States code and the implementing federal regulations, to conduct a functional behavioral assessment, to review, or revise, as appropriate or necessary, and implement a behavioral intervention plan, to develop appropriate behavioral interventions and to review and revise, as appropriate or necessary, the implementation of a behavioral intervention plan, to address the behavior of a student with a disability who is alleged to have engaged in misconduct, to the extent required by federal law and regulations.

* NB Effective until June 30, 2021

* (j) In accordance with the regulations of the commissioner and subsection (k) of section fourteen hundred fifteen of title twenty of the United States code and the implementing federal regulations, to conduct a review to determine whether behavior of a student with a disability which violates the applicable school rules or code of conduct and results in a change in placement under federal law, including but not limited to placement in an interim alternative educational setting pursuant to clause (iv) or (vii) of subparagraph three of paragraph g of subdivision three of section thirty-two hundred fourteen of this chapter, was a manifestation of the student's disability, provided that other qualified school district personnel may participate in such review.

* NB Effective June 30, 2021

* (k) In accordance with the regulations of the commissioner and subsection (k) of section fourteen hundred fifteen of title twenty of the United States code and the implementing federal regulations, to determine the setting and services to be provided in the interim alternative educational setting for a student with a disability who carries or possesses a weapon to or at school, on school premises, or to or at a school function or knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function or who has inflicted serious bodily injury upon another person as defined in federal law and the setting and services to be provided to a student with a disability in an interim alternative educational setting or other setting who is removed because of behavior that has been determined not to be a manifestation of the student's disability.

* NB Effective until June 30, 2021

* (k) In accordance with the regulations of the commissioner and subsection (k) of section fourteen hundred fifteen of title twenty of the United States code and the implementing federal regulations, to determine the services to be provided in the interim alternative educational placement for a student with a disability who carries or possesses a weapon to or at school, on school premises, or to or at

school function or knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function and the services to be provided to a student with a disability who is removed because of behavior that has been determined not to be a manifestation of the student's disability.

* NB Effective June 30, 2021

(l) In accordance with the regulations of the commissioner and the provisions of subsection (k) of section fourteen hundred fifteen of title twenty of the United States code, and the implementing federal regulations, to conduct expedited evaluations under the circumstances specified in such federal law and regulations and to conduct such reviews and make such determinations regarding students presumed to have a disability for discipline purposes as defined in subdivision three of section thirty-two hundred fourteen of this chapter as are required under the federal individuals with disabilities education act and implementing regulations.

REGULATIONS

8 CRR-NY 100.2 (l)(1) School conduct and discipline.

1. Policy on school conduct and discipline.

i. On or before January 1, 1986 each school district shall adopt and implement a written policy on school conduct and discipline ... and shall include:

d. procedures within each building to involve pupil service personnel, administrators, teachers, parents and students in the early identification and resolution of discipline problems. For students identified as having a disability, such policy shall include procedures for determining when a student's conduct shall constitute a reason for referral to the committee of special education for review and modification if appropriate of the student's individualized education program;

8 CRR-NY 100.2 (l)(2) Code of conduct.

ii. The code of conduct shall include, but is not limited to:

j. provisions ensuring such code and the enforcement thereof are in compliance with State and Federal laws relating to students with disabilities;

8 CRR-NY 201.1. Purpose.

The purpose of this Part is to implement the procedural protections of paragraph g of subdivision 3 of section 3214 and subdivision 1 of section 4404 of the Education Law relating to student discipline by coordinating the general procedures for suspension of students under Education Law section 3214 with the requirements of section 615(k) of the Individuals with Disabilities Education Act (20 U.S.C. section 1415[k]) and the Federal regulations implementing such statute.

8 CRR-NY 201.2. Definitions.

As used in this Part, the following terms shall have the following meanings:

(a) Behavioral intervention plan means a plan that is based on the results of the functional behavioral assessment and, at a minimum, includes a description of the problem behavior, global and specific hypotheses as to why the problem behavior occurs and intervention strategies that include positive behavioral supports and services to address the behavior.

(b) Committee on special education or CSE means a committee on special education, subcommittee on special education, or other multidisciplinary team established in accordance with Education Law section 4402 or, in the case of a preschool student with a disability, the committee on preschool special education.

(c) Controlled substance means a drug or other substance identified under schedule I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. section 812[c]) (United States Code, 2006 edition, volume 13 ; Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9328; 2008 - available at the Office of Counsel, New York State Education Department, State Education Building Room 148, 89 Washington Avenue, Albany, NY 12234).

(d) Day shall mean a calendar day, except where a school day or business day is specified.

(1) School day means any day, including a partial day, that students are in attendance at school for instructional purposes. The term school day has the same meaning for all students in school, including students with and without disabilities.

(2) Business day means Monday through Friday, except for Federal and State holidays (unless holidays are specifically included in the designation of business day).

(e) Disciplinary change in placement means a suspension or removal from a student's current educational placement that is either:

(1) for more than 10 consecutive school days; or

(2) for a period of 10 consecutive days or less if the student is subjected to a series of suspensions or removals that constitute a pattern because they cumulate to more than 10 school days in a school year; because the student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals; and because of such additional factors as the length of each suspension or removal, the total amount of time the student has been removed and the proximity of the suspensions or removals to one another. The school district determines on a case-by-case basis whether a pattern of removals constitutes a change of placement. This determination is subject to review through due process and judicial proceedings.

(f) Expedited due process hearing means an impartial hearing conducted in an expedited manner under the circumstances and in accordance with the procedures specified in section 201.11 of this Part.

(g) Expedited evaluation means an individual evaluation conducted in an expedited manner under the circumstances and in accordance with the procedures specified in section 201.6 of this Part.

(h) Functional behavioral assessment means a functional behavioral assessment as defined in section 200.1(r) of this Title.

(i) Illegal drug means a controlled substance, but does not include a controlled substance legally possessed or used under the supervision of a licensed health-care professional or a substance that is otherwise legally possessed or used under the authority of the Controlled Substances Act or under any other provision of Federal law.

(j) Impartial hearing officer means an impartial hearing officer as defined in section 200.1(x) of this Title who is appointed to conduct an impartial hearing or expedited due process hearing pursuant to Education Law section 4404(1). Such term shall not include a hearing officer designated by a superintendent of schools to conduct a superintendent's hearing pursuant to Education Law section 3214(3)(c).

(k) Interim alternative educational setting or IAES means a temporary educational placement, other than the student's current placement at the time the behavior precipitating the IAES placement occurred. A student who is placed in an IAES shall:

(1) continue to receive educational services so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP; and

(2) 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.

(l) Removal means:

- (1) a removal of a student with a disability for disciplinary reasons from that student's current educational placement, other than a suspension as defined in subdivision (r) of this section; and
- (2) the change in placement of a student with a disability to an IAES by an impartial hearing officer pursuant to section 201.8 of this Part. Such term shall also include the change of placement of a student with a disability to an IAES pursuant to section 201.7(e) of this Part made in conjunction with a suspension.

(m) Serious bodily injury means bodily injury which involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

(n) Student presumed to have a disability for discipline purposes means a student who the school district is deemed to have knowledge was a student with a disability before the behavior that precipitated disciplinary action under the criteria in section 201.5(b) of this Part.

(o) Student with a disability means a student with a disability as defined in section 200.1(zz) of this Part or a preschool student with a disability as defined in section 200.1(mm) of this Title.

(p) Superintendent or superintendent of schools means a superintendent of schools of a school district, including a community superintendent, or the chief school officer of an approved private school. Such term does not include a district superintendent of schools.

(q) Superintendent's hearing means a disciplinary hearing conducted pursuant to Education Law section 3214(3)(c) and (g) by a superintendent of schools, or a hearing officer designated by a superintendent of schools, to determine whether a student should be suspended from instruction for more than five consecutive school days.

(r) Suspension means suspension pursuant to Education Law section 3214(3)(a) through (d).

(s) Weapon means a weapon, device, instrument, material or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than two and one-half inches in length.

8 CRR-NY 201.3. CSE responsibilities for functional behavioral assessments and behavioral intervention plans.

If the manifestation team pursuant to section 201.4 of this Part, makes the determination that the conduct subject to the disciplinary action was a manifestation of the student's disability, the CSE must either:

- (a) conduct a functional behavioral assessment, unless the school district 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 student; or
- (b) if a behavioral intervention plan has already been developed, review the behavioral intervention plan and modify it as necessary to address the behavior.

8 CRR-NY 201.4. Manifestation determinations.

(a) General requirement for manifestation review. A review of the relationship between the student's disability and the behavior subject to disciplinary action to determine if the conduct is a manifestation of the disability must be made immediately, if possible, but in no case later than 10 school days after:

- (1) a decision is made by a superintendent of schools to change the placement of a student to an interim alternative educational setting pursuant to section 201.7(e) of this Part; or
- (2) a decision is made by an impartial hearing officer to place a student in an interim alternative educational setting pursuant to section 201.8 of this Part; or

(3) a decision is made by a board of education, district superintendent of schools, building principal or superintendent pursuant to section 201.7(a) or (b) of this Part to impose a suspension that constitutes a disciplinary change in placement.

(b) Individuals to carry out review. A review described in subdivision (a) of this section shall be conducted by a manifestation team in a meeting, which shall include a representative of the school district knowledgeable about the student and the interpretation of information about child behavior, the parent and relevant members of the CSE as determined by the parent and the school district. The parent must receive written notification prior to any manifestation team meeting to ensure that the parent has an opportunity to attend. The notification shall inform the parent of the purpose of the meeting, the names of the individuals expected to attend and inform the parent of his or her right to have relevant members of the CSE participate at the parent's request.

(c) Conduct of review. The manifestation team shall review all relevant information in the student's file including the student's IEP, any teacher observations, and any relevant information provided by the parents to determine if:

(1) the conduct in question was caused by or had a direct and substantial relationship to the student's disability; or

(2) the conduct in question was the direct result of the school district's failure to implement the IEP.

(d) Determination.

(1) The conduct must be determined to be a manifestation of the student's disability if the manifestation team determines that a condition in either paragraph (c)(1) or (2) of this section was met.

(2) If the manifestation team determines that the conduct was a manifestation of the student's disability, the CSE shall:

(i) conduct a functional behavioral assessment and implement a behavioral intervention plan for such student in accordance with section 201.3 of this Part; and

(ii) except as provided in section 201.7(e) of this Part, return the student to the placement from which the student was removed, unless the parent and the school district agree to a change of placement as part of the modification of the behavioral intervention plan.

(e) Deficiencies in IEP. If the manifestation team determines the conduct in question was the direct result of the school district's failure to implement the IEP, the school district must take immediate steps to remedy those deficiencies.

8 CRR-NY 201.5. Students presumed to have a disability for discipline purposes.

(a) General provision. The parent of a student who has violated any rule or code of conduct of the school district and was not identified as a student with a disability at the time of such behavior may assert any of the protections set forth in this Part, if the school district is deemed to have had knowledge as determined in accordance with subdivision (b) of this section, that the student was a student with a disability before the behavior that precipitated the disciplinary action occurred. Where the school district is deemed to have had knowledge that the student was a student with a disability before such behavior occurred, such student is a "student presumed to have a disability for discipline purposes."

(b) Basis of knowledge. Except as otherwise provided in subdivision (c) of this section, a school district shall be deemed to have knowledge that such student had a disability if prior to the time the behavior occurred:

(1) the parent of such student has expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency or to a teacher of the student that the student is in need of special education, provided that such expression of concern may be oral if the parent does not know how to write or has a disability that prevents a written statement; or

(2) the parent of the student has requested an evaluation of the student pursuant to section 200.4 or 200.16 of this Title; or

(3) a teacher of the student, or other personnel of the school district, has expressed specific concerns about a pattern of behavior demonstrated by the student, directly to the director of special education of the school district or to other supervisory personnel of the school district.

(c) Exception. A student is not a student presumed to have a disability for discipline purposes if, as a result of receiving the information specified in subdivision (b) of this section:

(1) the parent of the student has not allowed an evaluation of the student pursuant to section 200.4 of this Title; or

(2) the parent of the student has refused services under this Part; or

(3) it was determined that the student is not a student with a disability pursuant to section 200.4 or 200.16 of this Title.

(d) Responsibility for determining whether a student is a student presumed to have a disability. If it is claimed by the parent of the student or by school district personnel that the school district had a basis for knowledge, in accordance with paragraph (b) of this section, that the student was a student with a disability prior to the time the behavior subject to disciplinary action occurred, it shall be the responsibility of the superintendent of schools, building principal or other school official imposing the suspension or removal to determine whether the student is a student presumed to have a disability.

(e) Conditions that apply if there is no basis for knowledge. If the superintendent of schools, building principal or other school official imposing the disciplinary removal determines that there is no basis for knowledge that the student is a student with a disability prior to taking disciplinary measures against the student, the student may be subjected to the same disciplinary measures as any other nondisabled student who engaged in comparable behaviors. However, if a request for an individual evaluation is made while such nondisabled student is subjected to a disciplinary removal, an expedited evaluation shall be conducted in accordance with 201.6 of this Part.

8 CRR-NY 201.6. CSE responsibilities for expedited evaluations.

(a) If a request for an individual evaluation is made during the period that a nondisabled student, who is not a student presumed to have a disability for discipline purposes, is suspended pursuant to Education Law section 3214 or is subjected to a removal as defined in section 201.2(l) of this Part if imposed on a student with a disability, the evaluation must be conducted in an expedited manner in accordance with this section.

(b) An expedited evaluation shall be completed no later than 15 school days after receipt of parent consent for evaluation, and shall be conducted in accordance with the procedural requirements of sections 200.4 and 200.5 of this Title. The CSE shall make a determination of eligibility of such student in a meeting held no later than five school days after completion of the expedited evaluation.

(c) Until the expedited evaluation is completed, the nondisabled student shall remain in the educational placement determined by the school district, which can include suspension.

(d) If, as a result of an expedited evaluation, the student is determined to be a student with a disability, the school district shall provide special education to the student pursuant to Part 200 of this Title and the provisions of this Part relating to students with disabilities shall apply.

8 CRR-NY 201.7. General procedures for suspensions and removals of students with disabilities.

(a) Parental notice of disciplinary removal. No later than the date on which a decision is made to change the placement of a student with a disability to an IAES pursuant to subdivision (e) of this section or pursuant to section 201.8 of this Part, or a decision is to impose a suspension or removal pursuant to this

Part that constitutes a disciplinary change in placement, the parent shall be notified of such decision and shall be provided the procedural safeguards notice in accordance with section 200.5(f) of this Title.

(b) Five school day suspension or removal. Except as otherwise provided in subdivision (d) of this section, the trustees or board of education of any school district, a district superintendent of schools or a building principal with authority to suspend students pursuant to Education Law section 3214(3)(b) and (g), shall have authority to order the placement of a student with a disability into an appropriate interim alternative educational setting, another setting or suspension for a period not to exceed five consecutive school days, and not to exceed the amount of time that a nondisabled student would be subject to suspension for the same behavior.

(c) Ten school day suspension or removal. Except as otherwise provided in subdivision (d) of this section, a superintendent of schools, either directly or upon recommendation of a hearing officer designated to conduct a superintendent's hearing pursuant to Education Law, section 3214(3)(c) and (g), may order the placement of a student with a disability into an interim alternative educational setting, another setting or suspension for up to 10 consecutive school days, inclusive of any period in which the student has been suspended or removed pursuant to subdivision (b) of this section for the same behavior, where the superintendent determines in accordance with the procedures set forth in Education Law section 3214(3)(c) that the student has engaged in behavior that warrants a suspension, provided that the duration of any such suspension or removal shall not exceed the amount of time that a nondisabled student would be subject to suspension for the same behavior. Except as otherwise provided in subdivision (d) of this section, a superintendent of schools may order additional suspensions of not more than 10 consecutive school days in the same school year for separate incidents of misconduct.

(d) Exception for pattern of suspensions or removals. A student with a disability may not be removed pursuant to subdivision (b) or (c) of this section if imposition of the 5 school day or 10 school day suspension or removal would result in a disciplinary change in placement based on a pattern of suspensions or removals as determined by school personnel in accordance with the criteria set forth in section 201.2(e)(2) of this Part, except where the manifestation team pursuant to section 201.4 of this Part has determined that the behavior was not a manifestation of such student's disability, or the student is placed in an IAES as authorized under subdivision (e) of this section.

(e) Change in placement to an IAES for behavior involving serious bodily injury, weapons, illegal drugs or controlled substances.

(1) A superintendent of schools, either directly or upon recommendation of a hearing officer designated to conduct a superintendent's hearing pursuant to Education Law, section 3214(3)(c), may order the change in placement of a student with a disability to an appropriate IAES, to be determined by the CSE, for up to 45 school days, but not to exceed the period of suspension ordered by the superintendent in accordance with Education Law, section 3214(3), where the student:

(i) has inflicted serious bodily injury, as defined in section 201.2(m) of this Part, upon another person while at school, on school premises or at a school function under the jurisdiction of the educational agency;

(ii) carries or possesses a weapon to or at school, on school premises, or to or at a school function under the jurisdiction of the educational agency; or

(iii) 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 educational agency.

(2) The period of suspension or removal ordered by the superintendent may not exceed the amount of time that a nondisabled student would be suspended for the same behavior.

(f) 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 Part is appropriate for a student with a disability who violates a school district's code of student conduct.

8 CRR-NY 201.8. Authority of impartial hearing officer to order a change in placement to an IAES in a dangerous situation.

(a) An impartial hearing officer appointed pursuant to Education Law section 4404(1), in an expedited due process hearing conducted pursuant to section 201.11 of this Part, may order a change in placement of a student with a disability to an appropriate interim alternative educational setting (IAES) for not more than 45 school days, if the hearing officer determines that maintaining the current placement of the student is substantially likely to result in injury to the student or others.

(b) The procedures established in this section may be repeated if the school district believes that returning the student to the original placement is substantially likely to result in injury to the student or others.

(c) A school district shall not be required to commence disciplinary action against a student with a disability as a prerequisite for initiating an expedited due process hearing to obtain an order of an impartial hearing officer pursuant to this section.

(d) A determination that the student's behavior is a manifestation of the student's disability shall not preclude an impartial hearing officer from ordering a change in placement to an IAES pursuant to this section.

8 CRR-NY 201.9. Coordination with superintendent's hearing and other due process procedures applicable to all students.

(a) Procedures for suspensions of five school days or less. In the case of a suspension for five consecutive school days or less pursuant to paragraph b of subdivision 3 of section 3214 of the Education Law and section 201.7(b) of this Part, the parents or persons in parental relation to the student shall be provided an opportunity for an informal conference in accordance with paragraph d of subdivision 3 of section 3214 of the Education Law.

(b) Procedures for removals other than suspensions. A removal of a student with a disability, as defined in Section 201.2(l) of this Part, to which the provisions of paragraphs (a) through (d) of subdivision 3 of section 3214 of the Education Law do not apply, other than a change in placement to an IAES, shall be conducted in accordance with the due process procedures applicable to such removals of nondisabled students, except that school personnel may not impose such removal for more than 10 consecutive days or for a period that would result in a disciplinary change in placement, unless there has been a determination that the behavior is not a manifestation of the student's disability. The removal of a student with a disability to an IAES shall be conducted in accordance with the applicable provisions of section 201.7(e) of this Part and paragraph (c)(3) of this section, or of section 201.8 of this Part.

(c) Procedures for suspensions of more than five school days (superintendent's hearings). Superintendent's hearings on disciplinary charges against students with disabilities and students presumed to have a disability for discipline purposes shall be bifurcated into a guilt phase and a penalty phase and conducted in accordance with the following procedures:

(1) The superintendent of schools or hearing officer in the superintendent's hearing shall proceed with the guilt phase and determine whether the student is guilty of the alleged misconduct. If it is determined that the student is guilty of the alleged misconduct, the superintendent of schools or hearing officer in the superintendent's hearing shall make a threshold determination of whether a suspension or removal in excess of 10 consecutive school days or that would otherwise constitute a disciplinary change in placement should be considered. If the threshold determination is that such a suspension or removal

should be considered, before the superintendent of schools orders or the hearing officer in the superintendent's hearing recommends any such removal, the superintendent's hearing shall be adjourned until a manifestation determination is made by the manifestation team, except as otherwise provided in paragraph (3) of this subdivision. If the superintendent of schools or hearing officer in the superintendent's hearing determines that a suspension or removal that would constitute a disciplinary change in placement should not be considered, the hearing shall proceed to the penalty phase.

(2) Upon a determination by the manifestation team that the behavior of a student with a disability was not a manifestation of the student's disability, such student may be disciplined in the same manner as a nondisabled student, except that such student shall continue to receive services in accordance with section 201.10 of this Part. Upon receipt of notice of such determination, the superintendent or hearing officer in the superintendent's hearing shall proceed with the penalty phase of the hearing. If the manifestation team determines that the behavior was a manifestation of the student's disability, the superintendent or hearing officer in the superintendent's hearing shall dismiss the superintendent's hearing, except as otherwise provided in paragraph (3) of this subdivision.

(3) Notwithstanding the provisions of paragraphs (1) and (2) of this subdivision, if the superintendent or hearing officer in the superintendent's hearing is considering the change in placement of a student with a disability to an IAES pursuant to section 201.7(e) of this Part, upon a determination that the student is guilty of the alleged misconduct relating to serious bodily injury, weapons, illegal drugs or controlled substances, the superintendent of schools may order, or the hearing officer in the superintendent's hearing may recommend, such change in placement to an IAES, to be determined by the CSE, for up to 45 school days, but not to exceed the length of time that a nondisabled student would be suspended for the same misconduct under the school district's student discipline policy. The superintendent of schools may order such change in placement of a student with a disability to an IAES, directly or upon recommendation of a hearing officer in the superintendent's hearing, even where the manifestation team determines that the student's behavior is a manifestation of the student's disability.

(4) The penalty phase of a superintendent's hearing for a student with a disability or a student presumed to have a disability for discipline purposes shall be conducted in the same manner as the penalty phase of a hearing involving a nondisabled student, including the admission of anecdotal evidence of past instances of misconduct. The school district shall assure that copies of the special education and disciplinary records of the student are transmitted to the superintendent of schools or hearing officer in the superintendent's hearing for consideration. Such records shall be transmitted whether or not the manifestation team has determined that the student's behavior is a manifestation of the student's disability.

(5) Nothing in this section shall be construed to authorize the suspension or removal of a student with a disability from his or her current educational placement for violation of school rules following a determination by the manifestation team that the behavior is a manifestation of the student's disability, except where the student is placed in an IAES for behavior involving serious bodily injury, weapons, illegal drugs or controlled substances pursuant to section 201.7(e) of this Part or the student is placed in an IAES by an impartial hearing officer pursuant to section 201.8 of this Part.

8 CRR-NY 201.10. Provision of services during suspensions.

(a) During any period of suspension, a student with a disability shall be provided services to the extent required under this section and paragraph (e) of subdivision 3 of section 3214 of the Education Law. Nothing in this section shall be construed to confer a greater right to services than is required under Education Law, section 3214(3)(e) and Federal law and regulations.

(b) During suspensions or removals for periods of up to 10 school days in a school year that do not constitute a disciplinary change in placement, students with disabilities of compulsory attendance age shall be provided with alternative instruction pursuant to Education Law, section 3214(3)(e) on the same

basis as nondisabled students. Students with disabilities who are not of compulsory attendance age shall be entitled to receive services during such suspensions only to the extent that services are provided to nondisabled students of the same age who have been similarly suspended.

(c) During subsequent suspensions or removals for periods of 10 consecutive school days or less that in the aggregate total more than 10 school days in a school year but do not constitute a disciplinary change in placement, regardless of the manifestation determination, students with disabilities shall be provided with services necessary to enable the student to continue to participate in the general education curriculum and to progress toward meeting the goals set out in the student's IEP and to receive, as appropriate, a functional behavioral assessment, behavioral intervention services and modifications that are designed to address the behavior violation so it does not recur. School personnel, in consultation with at least one of the student's teachers, shall determine the extent to which services are needed, so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress in meeting the goals set out in the student's IEP.

(d) During suspensions or other disciplinary removals, including suspensions or removals pursuant to section 201.7(e) of this Part, for periods in excess of 10 school days in a school year which constitute a disciplinary change in placement, regardless of the manifestation determination, students with disabilities shall be provided with services necessary to enable the student to continue to participate in the general education curriculum, to progress toward meeting the goals set out in the student's IEP, and to receive, as appropriate pursuant to section 201.3 of this Part, a functional behavioral assessment, behavioral intervention services and modifications that are designed to address the behavior violation so it does not recur. The IAES and services shall be determined by the CSE.

8 CRR-NY 201.11. Expedited due process hearings.

(a) An expedited due process hearing shall be conducted pursuant to this Part under the following circumstances:

- (1) the school district requests an expedited due process hearing to obtain an order of an impartial hearing officer placing a student with a disability in an IAES pursuant to section 201.8 of this Part where school personnel maintain that it is dangerous for the student to be in his or her current educational placement;
- (2) the school district requests an expedited due process hearing to obtain an order of an impartial hearing officer placing a student with a disability in an IAES during the pendency of due process hearings where school personnel maintain that it is dangerous for the student to be in his or her current educational placement during such proceedings;
- (3) the parent requests a hearing from a determination that the student's behavior was not a manifestation of the student's disability; or
- (4) the parent requests a hearing relating to any decision regarding placement under section 201.7 of this Part, including but not limited to any decision to place the student in an IAES.

(b) An expedited due process hearing shall be conducted in accordance with the procedures specified in section 200.5(j) of this Title, except as follows:

- (1) Upon receipt of or filing of a due process complaint notice for an expedited hearing, the board of education shall arrange for an impartial hearing and the appointment of an impartial hearing officer using the list in accordance with the rotational selection process established in section 200.2(e)(l) of this Title and the administrative procedures established by the board of education pursuant to section 200.2(b)(9) of this Title.
- (2) The impartial officer may not accept appointment unless available to hold the hearing and render the decision within the time period for expedited hearings pursuant to paragraph (3) of this subdivision.

(3) The school district shall arrange the expedited due process hearing according to the following time period, unless the parent and school district agree in writing to waive the resolution meeting or agree to use mediation:

(i) A resolution meeting shall occur within seven days of receiving notice of the due process complaint.

(ii) The expedited due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 days of receipt of the due process complaint.

(iii) The expedited due process hearing shall occur within 20 school days of the date the complaint requesting the hearing is filed; and

(iv) The impartial hearing officer shall make a determination within 10 school days after the hearing.

(4) No extension to an expedited impartial hearing timeline may be granted.

(5) The impartial hearing officer shall mail a copy of the written, or at the option of the parents, electronic findings of fact and the decision to the parents, to the board of education and the Office of Special Education of the New York State Education Department within 10 school days after the hearing.

(c) If a parent requests a hearing or an appeal regarding the change in placement of a student to an IAES by a superintendent of schools, or regarding a change in placement by an impartial hearing officer pursuant to section 201.8 of this Part where the school district maintains that it is dangerous for the student to remain in his or her current educational placement, or regarding a determination that the behavior is not a manifestation of the student's disability for a student who has been placed in an IAES, the student shall remain in the IAES pending the decision of the impartial hearing office or until expiration of the time period determined in accordance with section 201.7 or 201.8 of this Part, as applicable, whichever occurs first, unless the parents and the school district otherwise agree.

(d) When an expedited due process hearing has been requested because of a disciplinary change in placement, the manifestation determination or because the school district believes that maintaining the student in the current placement is likely to result in injury to the student or others, the student shall remain in the IAES pending the decision of the impartial hearing officer or until the expiration of the period of removal, whichever occurs first, unless the parent and the school district agree otherwise.

Administrative procedures related to suspension and expulsion

LAWS

2801. Codes of conduct on school property.

2. The board of education or the trustees, as defined in section two of this chapter, of every school district within the state, however created, and every board of cooperative educational services and county vocational extension board, shall adopt and amend, as appropriate, a code of conduct for the maintenance of order on school property, including a school function, which shall govern the conduct of students, teachers and other school personnel as well as visitors and shall provide for the enforcement thereof... Such code of conduct shall include, at a minimum:

f. procedures by which violations are reported, determined, discipline measures imposed and discipline measures carried out;

g. provisions ensuring such code and the enforcement thereof are in compliance with state and federal laws relating to students with disabilities;

3214. Student placement, suspensions and transfers.

3. Suspension of a pupil.

a. The board of education, board of trustees or sole trustee, the superintendent of schools, district superintendent of schools or principal of a school may suspend the following pupils from required attendance upon instruction: A pupil who is insubordinate or disorderly or violent or disruptive, or whose conduct otherwise endangers the safety, morals, health or welfare of others.

b. (1) The board of education, board of trustees, or sole trustee, superintendent of schools, district superintendent of schools and the principal of the school where the pupil attends shall have the power to suspend a pupil for a period not to exceed five school days. In the case of such a suspension, the suspending authority shall provide the pupil with notice of the charged misconduct. If the pupil denies the misconduct, the suspending authority shall provide an explanation of the basis for the suspension. The pupil and the person in parental relation to the pupil shall, on request, be given an opportunity for an informal conference with the principal at which the pupil and/or person in parental relation shall be authorized to present the pupil's version of the event and to ask questions of the complaining witnesses. The aforesaid notice and opportunity for an informal conference shall take place prior to suspension of the pupil unless the pupil's presence in the school poses a continuing danger to persons or property or an ongoing threat of disruption to the academic process, in which case the pupil's notice and opportunity for an informal conference shall take place as soon after the suspension as is reasonably practicable.

(2) A teacher shall immediately report and refer a violent pupil to the principal or superintendent for a violation of the code of conduct and a minimum suspension period pursuant to section twenty-eight hundred one of this chapter.

c. (1) No pupil may be suspended for a period in excess of five school days unless such pupil and the person in parental relation to such pupil shall have had an opportunity for a fair hearing, upon reasonable notice, at which such pupil shall have the right of representation by counsel, with the right to question witnesses against such pupil and to present witnesses and other evidence on his behalf. Where a pupil has been suspended in accordance with this subdivision by a superintendent of schools, district superintendent of schools, or community superintendent, the superintendent shall personally hear and determine the proceeding or may, in his discretion, designate a hearing officer to conduct the hearing. The hearing officer shall be authorized to administer oaths and to issue subpoenas in conjunction with the proceeding before him. A record of the hearing shall be maintained, but no stenographic transcript shall be required, and a tape recording shall be deemed a satisfactory record. The hearing officer shall make findings of fact and recommendations as to the appropriate measure of discipline to the superintendent. The report of the hearing officer shall be advisory only, and the superintendent may accept all or any part thereof. An appeal will lie from the decision of the superintendent to the board of education who shall make its decision solely upon the record before it. The board may adopt in whole or in part the decision of the superintendent of schools. Where the basis for the suspension is, in whole or in part, the possession on school grounds or school property by the student of any firearm, rifle, shotgun, dagger, dangerous knife, dirk, razor, stiletto or any of the weapons, instruments or appliances specified in subdivision one of section 265.01 of the penal law, the hearing officer or superintendent shall not be barred from considering the admissibility of such weapon, instrument or appliance as evidence, notwithstanding a determination by a court in a criminal or juvenile delinquency proceeding that the recovery of such weapon, instrument or appliance was the result of an unlawful search or seizure.

(2) Where a pupil has been suspended in accordance with this section by a board of education, the board may in its discretion hear and determine the proceeding or appoint a hearing officer who shall have the same powers and duties with respect to the board that a hearing officer has with respect to a superintendent where the suspension was ordered by him. The findings and recommendations of the hearing officer conducting the proceeding shall be advisory and subject to final action by the board of education, each member of which shall before voting review the testimony and acquaint himself with

the evidence in the case. The board may reject, confirm or modify the conclusions of the hearing officer.

d. Consistent with the federal gun-free schools act of nineteen hundred ninety-four, any public school pupil who is determined under this subdivision to have brought a weapon to school shall be suspended for a period of not less than one calendar year and any nonpublic school pupil participating in a program operated by a public school district using funds from the elementary and secondary education act of nineteen hundred sixty-five who is determined under this subdivision to have brought a weapon to a public school or other premises used by the school district to provide such programs shall be suspended for a period of not less than one calendar year from participation in such program. The procedures of this subdivision shall apply to such a suspension of a nonpublic school pupil. A superintendent of schools, district superintendent of schools or community superintendent shall have the authority to modify this suspension requirement for each student on a case-by-case basis. The determination of a superintendent shall be subject to review by the board of education pursuant to paragraph c of this subdivision and the commissioner pursuant to section three hundred ten of this chapter. Nothing in this subdivision shall be deemed to authorize the suspension of a student with a disability in violation of the individuals with disabilities education act or article eighty-nine of this chapter. A superintendent shall refer the pupil under the age of sixteen who has been determined to have brought a weapon to school in violation of this subdivision to a presentment agency for a juvenile delinquency proceeding consistent with article three of the family court act except a student fourteen or fifteen years of age who qualifies for juvenile offender status under subdivision forty-two of section 1.20 of the criminal procedure law. A superintendent shall refer any pupil sixteen years of age or older or a student fourteen or fifteen years of age who qualifies for juvenile offender status under subdivision forty-two of section 1.20 of the criminal procedure law, who has been determined to have brought a weapon to school in violation of this subdivision to the appropriate law enforcement officials.

e. Procedure after suspension. Where a pupil has been suspended pursuant to this subdivision and said pupil is of compulsory attendance age, immediate steps shall be taken for his or her attendance upon instruction elsewhere or for supervision or detention of said pupil pursuant to the provisions of article seven of the family court act. Where a pupil has been suspended or cause, the suspension may be revoked by the board of education whenever it appears to be for the best interest of the school and the pupil to do so. The board of education may also condition a student's early return to school and suspension revocation on the pupil's voluntary participation in counseling or specialized classes, including anger management or dispute resolution, where applicable.

f. Whenever the term "board of education or superintendent of schools" is used in this subdivision, it shall be deemed to include community boards of education and community superintendents governing community districts in accordance with the provisions of article fifty-two-A of this chapter. For the purpose of this subdivision, the term "weapon" means a firearm as such term is defined in section nine hundred twenty-one of title eighteen of the United States code.

g. Discipline of students with disabilities and students presumed to have a disability for discipline purposes.

(1) Notwithstanding any other provision of this subdivision to the contrary, a student with a disability as such term is defined in section forty-four hundred one of this chapter and a student presumed to have a disability for discipline purposes, may be suspended or removed from his or her current educational placement for violation of school rules only in accordance with the procedures established in this section, the regulations of the commissioner implementing this paragraph, and subsection (k) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statute, as such federal law and regulations are from time to time amended. Nothing in this paragraph shall be construed to confer greater rights on such students

than are conferred under applicable federal law and regulations, or to limit the ability of a school district to change the educational placement of a student with a disability in accordance with the procedures in article eighty-nine of this chapter.

(2) As used in this paragraph, a "student presumed to have a disability for discipline purposes" shall mean a student who the school district is deemed to have knowledge was a student with a disability before the behavior that precipitated disciplinary action under the criteria in subsection (k)(8) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statute.

(3) In applying the federal law consistent with this section:

(i) in the event of a conflict between the procedures established in this section and those established in subsection (k) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statute, such federal statute and regulations shall govern.

(ii) the trustees or board of education of any school district, a district superintendent of schools or a building principal shall have authority to order the placement of a student with a disability into an appropriate interim alternative educational setting, another setting or suspension for a period not to exceed five consecutive school days where such student is suspended pursuant to this subdivision and, except as otherwise provided in clause (vi) of this subparagraph, the suspension does not result in a change in placement under federal law.

(iii) the superintendent of schools of a school district, either directly or upon recommendation of a hearing officer designated pursuant to paragraph c of this subdivision, may order the placement of a student with a disability into an interim alternative educational setting, another setting or suspension for up to ten consecutive school days, inclusive of any period in which the student is placed in an appropriate interim alternative educational placement, another setting or suspension pursuant to clause (ii) of this subparagraph for the behavior, where the superintendent determines in accordance with the procedures set forth in this subdivision that the student has engaged in behavior that warrants a suspension, and, except as otherwise provided in clause (vi) of this subparagraph, the suspension does not result in a change in placement under federal law.

(iv) the superintendent of schools of a school district, either directly or upon recommendation of a hearing officer designated pursuant to paragraph c of this subdivision, may order the change in placement of a student with a disability to an interim alternative educational setting for up to forty-five days, but not to exceed the period of suspension ordered by a superintendent in accordance with this subdivision, under the circumstances specified in subsection (k)(1) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statute.

(v) the terms "day," "business day," and "school day" shall be as defined in section 300.9 of title thirty-four of the code of federal regulations.

(vi) notwithstanding any other provision of this subdivision to the contrary, upon a determination by the committee on special education that the behavior of a student with a disability was not a manifestation of the student's disability, such student may be disciplined pursuant to this section in the same manner as a nondisabled student, except that such student shall continue to receive services to the extent required under federal law and regulations.

(vii) an impartial hearing officer appointed pursuant to subdivision one of section forty-four hundred four of this chapter may order a change in placement of a student with a disability to an appropriate interim alternative educational setting for not more than forty-five days under the circumstances specified in subsections (k)(2) and (k)(7) of section fourteen hundred fifteen of title twenty of the

United States code and the federal regulations implementing such statutes, provided that such procedure may be repeated, as necessary.

(viii) nothing in this section shall be construed to authorize the suspension or removal of a student with a disability from his or her current educational placement for violation of school rules following a determination by the committee on special education that the behavior is a manifestation of the student's disability, except as authorized under federal law and regulations.

(ix) the commissioner shall implement this paragraph by adopting regulations which coordinate the procedures required for discipline of students with disabilities, and students presumed to have a disability for discipline purposes, pursuant to subsection (k) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statute, with the general procedures for student discipline under this section.

3-a. Teacher removal of a disruptive pupil. In addition, any teacher shall have the power and authority to remove a disruptive pupil, as defined in subdivision two-a of this section, from such teacher's classroom consistent with discipline measures contained in the code of conduct adopted by the board pursuant to section twenty-eight hundred one of this chapter. The school authorities of any school district shall establish policies and procedures to ensure the provision of continued educational programming and activities for students removed from the classroom pursuant to this subdivision and provided further that nothing in this subdivision shall authorize the removal of a pupil in violation of any state or federal law or regulation. No pupil shall return to the classroom until the principal makes a final determination pursuant to paragraph c of this subdivision, or the period of removal expires, whichever is less.

a. Such teacher shall inform the pupil and the school principal of the reasons for the removal. If the teacher finds that the pupil's continued presence in the classroom does not pose a continuing danger to persons or property and does not present an ongoing threat of disruption to the academic process, the teacher shall, prior to removing the student from the classroom, provide the student with an explanation of the basis for the removal and allow the pupil to informally present the pupil's version of relevant events. In all other cases, the teacher shall provide the pupil with an explanation of the basis for the removal and an informal opportunity to be heard within twenty-four hours of the pupil's removal.

b. The principal shall inform the person in parental relation to such pupil of the removal and the reasons therefor within twenty-four hours of the pupil's removal. The pupil and the person in parental relation shall, upon request, be given an opportunity for an informal conference with the principal to discuss the reasons for the removal. If the pupil denies the charges, the principal shall provide an explanation of the basis for the removal and allow the pupil and/or person in parental relation to the pupil an opportunity to present the pupil's version of relevant events. Such informal hearing shall be held within forty-eight hours of the pupil's removal.

c. The principal shall not set aside the discipline imposed by the teacher unless the principal finds that the charges against the pupil are not supported by substantial evidence or that the pupil's removal is otherwise in violation of law or that the conduct warrants suspension from school pursuant to this section and a suspension will be imposed. The principal's determination made pursuant to this paragraph shall be made by the close of business on the day succeeding the forty-eight-hour period for an informal hearing contained in paragraph b of this subdivision.

d. The principal may, in his or her discretion, designate a school district administrator, to carry out the functions required of the principal under this subdivision.

5. Involuntary transfers of pupils who have not been determined to be a student with a disability or a student presumed to have a disability for discipline purposes.

a. The board of education, board of trustees or sole trustee, the superintendent of schools, or district superintendent of schools may transfer a pupil who has not been determined to be a student with a disability as defined in section forty-four hundred one of this chapter, or a student presumed to have a

disability for discipline purposes as defined in paragraph g of subdivision three of this section from regular classroom instruction to an appropriate educational setting in another school upon the written recommendation of the school principal and following independent review thereof. For purposes of this section of the law, "involuntary transfer" does not include a transfer made by a school district as part of a plan to reduce racial imbalance within the schools or as a change in school attendance zones or geographical boundaries.

b. A school principal may initiate a non-requested transfer where it is believed that such a pupil would benefit from the transfer, or when the pupil would receive an adequate and appropriate education in another school program or facility.

No recommendation for pupil transfer shall be initiated by the principal until such pupil and a person in parental relation has been sent written notification of the consideration of transfer recommendation. Such notice shall set a time and place of an informal conference with the principal and shall inform such person in parental relation and such pupil of their right to be accompanied by counsel or an individual of their choice.

c. After the conference and if the principal concludes that the pupil would benefit from a transfer or that the pupil would receive an adequate and appropriate education in another school program or facility, the principal may issue a recommendation of transfer to the superintendent. Such recommendation shall include a description of behavior and/or academic problems indicative of the need for transfer; a description of alternatives explored, and prior action taken to resolve the problem. A copy of that letter shall be sent to the person in parental relation and to the pupil.

d. Upon receipt of the principal's recommendation for transfer and a determination to consider that recommendation, the superintendent shall notify the person in parental relation and the pupil of the proposed transfer and of their right to a fair hearing as provided in paragraph c of subdivision three of this section and shall list community agencies and free legal assistance which may be of assistance. The written notice shall include a statement that the pupil or person in parental relation has ten days to request a hearing and that the proposed transfer shall not take effect, except upon written parental consent, until the ten day period has elapsed, or, if a fair hearing is requested, until after a formal decision following the hearing is rendered, whichever is later. Parental consent to a transfer shall not constitute a waiver of the right to a fair hearing.

6. Transfer of a pupil. Where a suspended pupil is to be transferred pursuant to subdivision five of this section, he or she shall remain on the register of the original school for two school days following transmittal of his or her records to the school to which he or she is to be transferred. The receiving school shall immediately upon receiving those records transmitted by the original school, review them to insure proper placement of the pupil. Staff members who are involved in the pupil's education must be provided with pertinent records and information relating to the background and problems of the pupil before the pupil is placed in a classroom.

REGULATIONS

8 CRR-NY 100.2 (l)(1) School conduct and discipline.

1. Policy on school conduct and discipline.

i. On or before January 1, 1986 each school district shall adopt and implement a written policy on school conduct and discipline ... and shall include:

c. strategies and procedures for the maintenance and enforcement of public order on school property which shall govern the conduct of all persons on school premises, in accordance with section 2801 of the Education Law and accepted principles of due process of law;

d. procedures within each building to involve pupil service personnel, administrators, teachers, parents and students in the early identification and resolution of discipline problems. For students identified as having a disability, such policy shall include procedures for determining when a student's conduct shall constitute a reason for referral to the committee of special education for review and modification if appropriate of the student's individualized education program;

8 CRR-NY 100.2 (l)(2) Code of conduct.

ii. The code of conduct shall include, but is not limited to:

h. provisions for detention, suspension and removal from the classroom of students, consistent with Education Law section 3214 and other applicable Federal, State and local laws including provisions for the school authorities to establish policies and procedures to ensure the provision of continued educational programming and activities for students removed from the classroom, placed in detention, or suspended from school, which shall include alternative educational programs appropriate to individual student needs;

i. procedures by which violations are reported, determined, discipline measures imposed and discipline measures carried out;

In-school suspension

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Return to school following removal

LAWS

3214. Student placement, suspensions and transfers.

3-a. Teacher removal of a disruptive pupil. In addition, any teacher shall have the power and authority to remove a disruptive pupil, as defined in subdivision two-a of this section, from such teacher's classroom consistent with discipline measures contained in the code of conduct adopted by the board pursuant to section twenty-eight hundred one of this chapter. The school authorities of any school district shall establish policies and procedures to ensure the provision of continued educational programming and activities for students removed from the classroom pursuant to this subdivision and provided further that nothing in this subdivision shall authorize the removal of a pupil in violation of any state or federal law or regulation. No pupil shall return to the classroom until the principal makes a final determination pursuant to paragraph c of this subdivision, or the period of removal expires, whichever is less.

a. Such teacher shall inform the pupil and the school principal of the reasons for the removal. If the teacher finds that the pupil's continued presence in the classroom does not pose a continuing danger to persons or property and does not present an ongoing threat of disruption to the academic process, the teacher shall, prior to removing the student from the classroom, provide the student with an explanation of the basis for the removal and allow the pupil to informally present the pupil's version of relevant events. In all other cases, the teacher shall provide the pupil with an explanation of the basis for the removal and an informal opportunity to be heard within twenty-four hours of the pupil's removal.

REGULATIONS

8 CRR-NY 100.2 (l)(2) Code of conduct.

- ii. The code of conduct shall include, but is not limited to:
 - e. provisions prescribing the period for which a disruptive pupil may be removed from the classroom for each incident, provided that no such pupil shall return to the classroom until the principal makes a final determination pursuant to Education Law section 3214(3-a)(c), or the period of removal expires, whichever is less;

Use of restraint and seclusion

LAWS

No relevant laws found.

REGULATIONS

8 CRR-NY 19.5. Prohibition of corporal punishment and aversive interventions.

- (a) Prohibition of corporal punishment.
 - (1) No teacher, administrator, officer, employee or agent of a school district in this State, a board of cooperative educational services (BOCES), a charter school, State-operated or State-supported school, an approved preschool program, an approved private school, an approved out-of-state day or residential school, or a registered nonpublic nursery, kindergarten, elementary or secondary school in this State, shall use corporal punishment against a pupil.
 - (2) As used in this section, corporal punishment means any act of physical force upon a pupil for the purpose of punishing that pupil, except as otherwise provided in paragraph (3) of this subdivision.
 - (3) In situations in which alternative procedures and methods not involving the use of physical force cannot reasonably be employed, nothing contained in this section shall be construed to prohibit the use of reasonable physical force for the following purposes:
 - (i) to protect oneself from physical injury;
 - (ii) to protect another pupil or teacher or any person from physical injury;
 - (iii) to protect the property of the school, school district or others; or
 - (iv) to restrain or remove a pupil whose behavior is interfering with the orderly exercise and performance of school or school district functions, powers and duties, if that pupil has refused to comply with a request to refrain from further disruptive acts.
- (b) Prohibition of the use of aversive interventions.
 - (1) No public school, BOCES, charter school, approved preschool program, approved private school, State-operated or State-supported school in this State, approved out-of-state day or residential school, or registered nonpublic nursery, kindergarten, elementary or secondary school in this State shall employ the use of aversive behavioral interventions to reduce or eliminate maladaptive behaviors, except as provided pursuant to section 200.22(e) and (f) of this Title.
 - (2) As used in this section, aversive intervention means: an intervention that is intended to induce pain or discomfort to a student for the purpose of eliminating or reducing maladaptive behaviors, including such interventions as:
 - (i) contingent application of noxious, painful, intrusive stimuli or activities; strangling, shoving, deep muscle squeezes or other similar stimuli;

- (ii) any form of noxious, painful or intrusive spray, inhalant or tastes;
- (iii) contingent food programs that include the denial or delay of the provision of meals or intentionally altering staple food or drink in order to make it distasteful;
- (iv) movement limitation used as a punishment, including but not limited to helmets and mechanical restraint devices; or
- (v) other stimuli or actions similar to the interventions described in subparagraphs (i) through (iv) of this paragraph.

The term does not include such interventions as voice control, limited to loud, firm commands; time-limited ignoring of a specific behavior; token fines as part of a token economy system; brief physical prompts to interrupt or prevent a specific behavior; interventions medically necessary for the treatment or protection of the student; or other similar interventions.

8 CRR-NY 200.22. Program standards for behavioral interventions.

Behavioral interventions for students with disabilities shall be provided in accordance with this section and those other applicable provisions of this Part and/or Part 201 that are not inconsistent with this section.

(c) Use of time out rooms. A time out room is an area for a student to safely deescalate, regain control and prepare to meet expectations to return to his or her education program. Time out rooms are to be used in conjunction with a behavioral intervention plan in which a student is removed to a supervised area in order to facilitate self-control or to remove a student from a potentially dangerous situation and as provided in paragraph (3) of this subdivision.

(1) Each school which uses a time out room as part of its behavior management approach shall ensure that the school's policy and procedures on the use of the time out room are developed and implemented consistent with this subdivision, including the physical and monitoring requirements, parental rights and IEP requirements for students with disabilities. The school's policy and procedures shall minimally include:

- (i) prohibiting placing a student in a locked room or space or in a room where the student cannot be continuously observed and supervised;
- (ii) factors which may precipitate the use of the time out room;
- (iii) time limitations for the use of the time out room;
- (iv) staff training on the policies and procedures related to the use of time out room;
- (v) data collection to monitor the effectiveness of the use of time out rooms; and
- (vi) information to be provided to parents.

(2) A student's IEP shall specify when a behavioral intervention plan includes the use of a time out room for a student with a disability, including the maximum amount of time a student will need to be in a time out room as a behavioral consequence as determined on an individual basis in consideration of the student's age and individual needs.

(3) Except for unanticipated situations that pose an immediate concern for the physical safety of a student or others, the use of a time out room shall be used only in conjunction with a behavioral intervention plan that is designed to teach and reinforce alternative appropriate behaviors.

(4) The school district shall inform the student's parents prior to the initiation of a behavioral intervention plan that will incorporate the use of a time out room for a student and shall give the parent the opportunity to see the physical space that will be used as a time out room and provide the parent with a copy of the school's policy on the use of time out rooms.

(5) The physical space used as a time out room shall provide a means for continuous visual and auditory monitoring of the student. The room shall be of adequate width, length and height to allow

the student to move about and recline comfortably. Wall and floor coverings should be designed to prevent injury to the student and there shall be adequate lighting and ventilation. The temperature of the room shall be within the normal comfort range and consistent with the rest of the building. The room shall be clean and free of objects and fixtures that could be potentially dangerous to a student and shall meet all local fire and safety codes.

(6) The time out room shall be unlocked and the door must be able to be opened from the inside. The use of locked rooms or spaces for purposes of time out is prohibited.

(7) Staff shall continuously monitor the student in a time out room. The staff must be able to see and hear the student at all times.

(8) The school shall establish and implement procedures to document the use of the time out room, including information to monitor the effectiveness of the use of the time out room to decrease specified behaviors.

(9) For an education program operated pursuant to section 112 of the Education Law and Part 116 of this Title, if a provision of this section relating to use of time out rooms conflicts with the rules of the respective State agency operating such program, the rules of such State agency shall prevail and the conflicting provisions of this section shall not apply.

(d) Emergency/interventions.

(1) For purposes of this subdivision, emergency means a situation in which immediate intervention involving the use of reasonable physical force pursuant to section 19.5(a)(3) of this Title is necessary.

(2) Use of emergency interventions

(i) Emergency interventions shall be used only in situations in which alternative procedures and methods not involving the use of physical force cannot reasonably be employed.

(ii) Emergency interventions shall not be used as a punishment or as a substitute for systematic behavioral interventions that are designed to change, replace, modify or eliminate a targeted behavior.

(3) Staff training. Staff who may be called upon to implement emergency interventions shall be provided with appropriate training in safe and effective restraint procedures in accordance with sections 100.2(l)(1)(i)(h) of this Title and 200.15(f)(1) of this Part as applicable.

(4) Documentation. The school must maintain documentation on the use of emergency interventions for each student, which shall include the name and date of birth of the student; the setting and the location of the incident; the name of the staff or other persons involved; a description of the incident and the emergency intervention used, including duration; a statement as to whether the student has a current behavioral intervention plan; and details of any injuries sustained by the student or others, including staff, as a result of the incident. The parent of the student shall be notified and documentation of emergency interventions shall be reviewed by school supervisory personnel and, as necessary, the school nurse or other medical personnel.

(5) Applicability. For an education program operated pursuant to section 112 of the Education Law and Part 116 of this Title, if a provision of this section relating to emergency interventions conflicts with the rules of the respective State agency operating such program, the rules of such State agency shall prevail and the conflicting provision of this section shall not apply.

Alternative placements

LAWS

3214. Student placement, suspensions and transfers.

2. Special day schools. The school authorities of any city or school district may establish schools or set apart rooms in public school buildings for the instruction of school delinquents and fix the number of days per week and the hours per day of required attendance, which shall not be less than is required of minors attending the full-time day schools.

3. Suspension of a pupil.

e. Procedure after suspension. Where a pupil has been suspended pursuant to this subdivision and said pupil is of compulsory attendance age, immediate steps shall be taken for his or her attendance upon instruction elsewhere or for supervision or detention of said pupil pursuant to the provisions of article seven of the family court act. Where a pupil has been suspended or cause, the suspension may be revoked by the board of education whenever it appears to be for the best interest of the school and the pupil to do so. The board of education may also condition a student's early return to school and suspension revocation on the pupil's voluntary participation in counseling or specialized classes, including anger management or dispute resolution, where applicable.

4112. Commissioner of education to contract for keeping of truants.

The commissioner of education may contract with any city or district having a school for delinquents, for the confinement, maintenance and instruction therein of any child who shall be committed to such school as a truant by any magistrate before whom such child shall have been examined upon the charge of truancy. The costs and expenses attending the support and maintenance of any truant, as herein provided, shall be audited by the commissioner of education and paid in the same manner as the expenses of supporting and maintaining the schools on a reservation are paid.

4404. Appeal procedures for children with handicapping conditions.

1. If the recommendation of the committee on special education is not acceptable to the parent or person in parental relationship of a student, or if the committee or board of education or trustees fails to make or effectuate such a recommendation within such periods of time as may be required by regulations of the commissioner, such parents or persons in parental relationship shall notify the board of education of this situation and the board shall appoint an impartial hearing officer to hear the appeal and make a determination within such period of time as the commissioner by regulation shall determine, provided that the board of education or trustees shall offer the parent or person in parental relationship the option of mediation pursuant to section forty-four hundred four-a of this article as an alternative to an impartial hearing. Individuals so appointed by a board of education shall be selected from a list of available hearing officers who have successfully completed a hearing officer training program conducted by the department according to a rotation selection process prescribed in regulations of the commissioner; except that a city school district of a city having a population of more than one million inhabitants shall be exempt from such regulations to the extent it maintains its rotational selection process in effect prior to July first, nineteen hundred ninety-three. A record of proceedings before the hearing officer shall be maintained and made available to the parties. The board of education or trustees of the school district or the state agency responsible for providing education to students with disabilities shall have the burden of proof, including the burden of persuasion and burden of production, in any such impartial hearing, except that a parent or person in parental relation seeking tuition reimbursement for a unilateral parental placement shall have the burden of persuasion and burden of production on the appropriateness of such placement. The decision of the hearing officer shall be binding upon both parties unless appealed to the state review

officer. The commissioner shall establish a department training program which shall be completed to the satisfaction of the commissioner as a condition of certification. The commissioner shall develop and implement a plan to ensure that no individual employed by a school district, school or program serving students with disabilities placed by a school district committee on special education acts as an impartial hearing officer and that no individual employed by such schools or programs serves as an impartial hearing officer for two years following the termination of such employment. Such plan shall be fully implemented no later than July first, nineteen hundred ninety-six. The commissioner shall promulgate regulations establishing procedures for the suspension or revocation of impartial hearing officer certification for good cause. The commissioner shall establish maximum rates for the compensation of impartial hearing officers subject to the approval of the director of the division of the budget. The commissioner shall promulgate regulations establishing procedures and timelines for expedited hearings in cases involving: (a) review of a decision that a student with a disability's behavior was not a manifestation of such student's disability, or (b) review of an interim alternative educational setting or other placement to the extent required under federal law, or (c) a request by the school district for a determination that maintaining the current educational placement of the student is substantially likely to result in injury to the student or to others.

2. Review by state review officer. A state review officer of the education department shall review and may modify, in such cases and to the extent that the review officer deems necessary, in order to properly effectuate the purposes of this article, any determination of the impartial hearing officer relating to the determination of the nature of a child's handicapping condition, selection of an appropriate special education program or service and the failure to provide such program and require such board to comply with the provisions of such modification. The commissioner shall adopt regulations governing the practice and procedure in such appeals to the state review officer; provided, however, that in no event shall any fee or charge whatsoever be imposed for any appeal taken pursuant to this subdivision. The state review officer is empowered to make all orders which are proper or necessary to give effect to the decision of the review officer.

3. Review of the determination of a state review officer regarding children with disabilities.

a. Any final determination or order of a state review officer rendered pursuant to subdivision two of this section may only be reviewed in a proceeding brought in the supreme court pursuant to article four of the civil practice law and rules, and paragraph b of this subdivision, or in United States district court.

b. In any such proceeding under article four of the civil practice law and rules, the court may grant any relief authorized by the provisions of rule four hundred eleven of such law and rules, which shall include any relief available in a civil action under section six hundred fifteen of the individuals with disabilities education act (20 U.S.C. section 1415) and also may, in its discretion remand the proceedings to the state review officer for further consideration upon a finding that any relevant and material evidence is then available which was not previously considered by the state review officer. Such proceeding shall be deemed a proceeding against a body or officer for purposes of sections two hundred seventeen and five hundred six of the civil practice law and rules. The court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and basing its decision on the preponderance of the evidence, shall grant the relief that the court determines to be appropriate.

4. a. During the pendency of any proceedings conducted pursuant to this section, other than a proceeding subject to paragraph b of this subdivision, and during the initial identification, evaluation and placement procedure pursuant to this section and during the initial identification, evaluation and placement procedure pursuant to section forty-four hundred two of this article, unless the local school district and the parents or persons in parental relationship otherwise agree, the student shall remain in the then current

educational placement of such student, or, if applying for initial admission to a public school, shall be placed in the public school program until all such proceedings have been completed.

b. For students with disabilities placed in an interim alternative educational setting pursuant to clause (iv) or (vii) of subparagraph three of paragraph g of subdivision three of section thirty-two hundred fourteen of this chapter, during the pendency of proceedings conducted pursuant to this section in which the parents or persons in parental relationship challenge the interim alternative educational setting or a manifestation determination, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until expiration of the time period of the student's interim alternative placement, whichever comes first, unless the local school district and the parents or persons in parental relationship otherwise agree. After the expiration of such interim alternative educational placement, if the school district proposes to change the student's placement, during the pendency of any proceedings to challenge the proposed change in placement, the student shall return to and remain in the current educational placement, which shall be the student's placement prior to the interim alternative educational setting, unless the local school district and the parents or persons in parental relationship otherwise agree or unless as a result of a decision by an impartial hearing officer in an expedited hearing, the interim alternative educational setting is extended or another appropriate placement is ordered for a period not to exceed forty-five days based on a determination that maintaining the current educational placement of the student is substantially likely to result in injury to the student or to others. Such procedure for extension of an interim alternative educational setting may be repeated as necessary.

5. For purposes of this section, to the extent required by federal law, a student presumed to have a disability for discipline purposes shall be deemed to be a student with a disability and the parents or persons in parental relationship of a student presumed to have a disability for discipline purposes shall be afforded the procedural rights of the parents or persons in parental relationship of a student with a disability. Nothing in this section shall be construed to confer upon a student presumed to have a disability for disciplinary purposes greater procedural rights than such student would have under the provisions of section six hundred fifteen of the individuals with disabilities education act.

REGULATIONS

8 CRR-NY 100.2 (l)(1) School conduct and discipline.

1. Policy on school conduct and discipline.

i. On or before January 1, 1986 each school district shall adopt and implement a written policy on school conduct and discipline ... and shall include:

e. alternative educational programs appropriate to individual students needs;

8 CRR-NY 100.2 (l)(2) Code of conduct.

ii. The code of conduct shall include, but is not limited to:

h. provisions for detention, suspension and removal from the classroom of students, consistent with Education Law section 3214 and other applicable Federal, State and local laws including provisions for the school authorities to establish policies and procedures to ensure the provision of continued educational programming and activities for students removed from the classroom, placed in detention, or suspended from school, which shall include alternative educational programs appropriate to individual student needs;

8 CRR-NY 200.6 (n). Interim alternative education setting (IAES).

Students with disabilities who have been suspended or removed from their current placement for more than 10 school days pursuant to Part 201 of this Title may be placed in an IAES. The IAES, to the extent

provided in Part 201 of this Title, shall be an educational setting, other than the student's current placement at the time the behavior precipitating the IAES placement occurred. A student placed in an IAES shall:

- (1) continue to receive educational services so as to enable the student to continue to participate in the general education curriculum, although in another setting and to progress toward the goals set out in the student's IEP; and
- (2) 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.

Disciplinary Approaches Addressing Specific Infractions and Conditions

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

LAWS

265.01-a. Criminal possession of a weapon on school grounds.

A person is guilty of criminal possession of a weapon on school grounds when he or she knowingly has in his or her possession a rifle, shotgun, or firearm in or upon a building or grounds, used for educational purposes, of any school, college, or university, except the forestry lands, wherever located, owned and maintained by the State University of New York college of environmental science and forestry, or upon a school bus as defined in section one hundred forty-two of the vehicle and traffic law, without the written authorization of such educational institution.

Criminal possession of a weapon on school grounds is a class E felony.

3214. Student placement, suspensions and transfers.

2-a. a. Violent pupil. For the purposes of this section, a violent pupil is an elementary or secondary student under twenty-one years of age who:

(3) possesses, while on school district property, a gun, knife, explosive or incendiary bomb, or other dangerous instrument capable of causing physical injury or death;

(4) displays, while on school district property, what appears to be a gun, knife, explosive or incendiary bomb or other dangerous instrument capable of causing death or physical injury;

3. Suspension of a pupil.

d. Consistent with the federal gun-free schools act of nineteen hundred ninety-four, any public school pupil who is determined under this subdivision to have brought a weapon to school shall be suspended for a period of not less than one calendar year and any nonpublic school pupil participating in a program operated by a public school district using funds from the elementary and secondary education act of nineteen hundred sixty-five who is determined under this subdivision to have brought a weapon to a public school or other premises used by the school district to provide such programs shall be suspended for a period of not less than one calendar year from participation in such program. The procedures of this subdivision shall apply to such a suspension of a nonpublic school pupil. A superintendent of schools, district superintendent of schools or community superintendent shall have the authority to modify this suspension requirement for each student on a case-by-case basis. The determination of a superintendent shall be subject to review by the board of education pursuant to paragraph c of this subdivision and the commissioner pursuant to section three hundred ten of this chapter. Nothing in this subdivision shall be deemed to authorize the suspension of a student with a disability in violation of the individuals with disabilities education act or article eighty-nine of this chapter. A superintendent shall refer the pupil under the age of sixteen who has been determined to have brought a weapon to school in violation of this subdivision to a presentment agency for a juvenile delinquency proceeding consistent with article three of the family court act except a student fourteen or fifteen years of age who qualifies for juvenile offender status under subdivision forty-two of section 1.20 of the criminal procedure law. A superintendent shall refer any pupil sixteen years of age or older or a student fourteen or fifteen years of age who qualifies for juvenile offender status under subdivision forty-two of section 1.20 of the criminal procedure law, who has been determined to have brought a weapon to school in violation of this subdivision to the appropriate law enforcement officials.

REGULATIONS

No relevant regulations found.

Other weapons

LAWS

265.01-a. Criminal possession of a weapon on school grounds.

A person is guilty of criminal possession of a weapon on school grounds when he or she knowingly has in his or her possession a rifle, shotgun, or firearm in or upon a building or grounds, used for educational purposes, of any school, college, or university, except the forestry lands, wherever located, owned and maintained by the State University of New York college of environmental science and forestry, or upon a school bus as defined in section one hundred forty-two of the vehicle and traffic law, without the written authorization of such educational institution.

Criminal possession of a weapon on school grounds is a class E felony.

2801. Codes of conduct on school property.

2. The board of education or the trustees, as defined in section two of this chapter, of every school district within the state, however created, and every board of cooperative educational services and county vocational extension board, shall adopt and amend, as appropriate, a code of conduct for the maintenance of order on school property, including a school function, which shall govern the conduct of students, teachers and other school personnel as well as visitors and shall provide for the enforcement thereof... Such code of conduct shall include, at a minimum:

- d. disciplinary measures to be taken in incidents involving the possession or use of illegal substances or weapons, the use of physical force, vandalism, violation of another student's civil rights and threats of violence;

3214. Student placement, suspensions and transfers.

2-a. a. Violent pupil. For the purposes of this section, a violent pupil is an elementary or secondary student under twenty-one years of age who:

- (3) possesses, while on school district property, a gun, knife, explosive or incendiary bomb, or other dangerous instrument capable of causing physical injury or death;
- (4) displays, while on school district property, what appears to be a gun, knife, explosive or incendiary bomb or other dangerous instrument capable of causing death or physical injury;

3. Suspension of a pupil.

- d. Consistent with the federal gun-free schools act of nineteen hundred ninety-four, any public school pupil who is determined under this subdivision to have brought a weapon to school shall be suspended for a period of not less than one calendar year and any nonpublic school pupil participating in a program operated by a public school district using funds from the elementary and secondary education act of nineteen hundred sixty-five who is determined under this subdivision to have brought a weapon to a public school or other premises used by the school district to provide such programs shall be suspended for a period of not less than one calendar year from participation in such program. The procedures of this subdivision shall apply to such a suspension of a nonpublic school pupil. A superintendent of schools, district superintendent of schools or community superintendent shall have the authority to modify this suspension requirement for each student on a case-by-case basis. The determination of a superintendent shall be subject to review by the board of education pursuant to paragraph c of this subdivision and the commissioner pursuant to section three hundred ten of this

chapter. Nothing in this subdivision shall be deemed to authorize the suspension of a student with a disability in violation of the individuals with disabilities education act or article eighty-nine of this chapter. A superintendent shall refer the pupil under the age of sixteen who has been determined to have brought a weapon to school in violation of this subdivision to a presentment agency for a juvenile delinquency proceeding consistent with article three of the family court act except a student fourteen or fifteen years of age who qualifies for juvenile offender status under subdivision forty-two of section 1.20 of the criminal procedure law. A superintendent shall refer any pupil sixteen years of age or older or a student fourteen or fifteen years of age who qualifies for juvenile offender status under subdivision forty-two of section 1.20 of the criminal procedure law, who has been determined to have brought a weapon to school in violation of this subdivision to the appropriate law enforcement officials.

REGULATIONS

8 CRR-NY 100.2 (l)(2) Code of conduct.

ii. The code of conduct shall include, but is not limited to:

f. disciplinary measures to be taken in incidents on school property or at school functions involving the possession or use of illegal substances or weapons, the use of physical force, vandalism, violation of another student's civil rights, harassment and threats of violence;

Students with chronic disciplinary issues

LAWS

2801. Codes of conduct on school property.

2. The board of education or the trustees, as defined in section two of this chapter, of every school district within the state, however created, and every board of cooperative educational services and county vocational extension board, shall adopt and amend, as appropriate, a code of conduct for the maintenance of order on school property, including a school function, which shall govern the conduct of students, teachers and other school personnel as well as visitors and shall provide for the enforcement thereof... Such code of conduct shall include, at a minimum:

i. a minimum suspension period, for students who repeatedly are substantially disruptive of the educational process or substantially interfere with the teacher's authority over the classroom, provided that the suspending authority may reduce such period on a case by case basis to be consistent with any other state and federal law. For purposes of this section, the definition of "repeatedly are substantially disruptive" shall be determined in accordance with the regulations of the commissioner;

3214. Student placement, suspensions and transfers.

1. School delinquent. A minor under seventeen years of age, required by any of the provisions of part one of this article to attend upon instruction, who is an habitual truant from such instruction or is irregular in such attendance or insubordinate or disorderly or disruptive or violent during such attendance, is a school delinquent.

REGULATIONS

8 CRR-NY 100.2 (l)(1) School conduct and discipline.

1. Policy on school conduct and discipline.

i. On or before January 1, 1986 each school district shall adopt and implement a written policy on school conduct and discipline ... and shall include:

f. disciplinary measures for violation of the school policies developed in accordance with subparagraphs (ii) and (iii) of this paragraph. Such measures shall be appropriate to the seriousness of the offense and where applicable to the previous disciplinary record of the student. Any suspension from attendance upon instruction may be imposed only in accordance with section 3214 of the Education Law;

8 CRR-NY 100.2 (l)(2) Code of conduct.

ii. The code of conduct shall include, but is not limited to:

o. a minimum suspension period, for any student who repeatedly is substantially disruptive of the educational process or substantially interferes with the teacher's authority over the classroom, provided that the suspending authority may reduce such period on a case-by-case basis to be consistent with any other State and Federal Law. For purposes of this requirement, "repeatedly is substantially disruptive of the educational process or substantially interferes with the teacher's authority over the classroom" shall mean engaging in conduct which results in the removal of the student from the classroom by teacher(s) pursuant to the provisions of Education Law section 3214(3-a) and the provisions set forth in the code of conduct on four or more occasions during a semester, or three or more occasions during a trimester, as applicable;

Attendance and truancy

LAWS

3205. Attendance of minors upon full time day instruction.

1. a. In each school district of the state, each minor from six to sixteen years of age shall attend upon full time instruction.

b. Each minor from six to sixteen years of age on an Indian reservation shall attend upon full time day instruction.

c. For purposes of this article, a minor who becomes six years of age on or before the first of December in any school year shall be required to attend upon full time instruction from the first day that the appropriate public schools are in session in September of such school year, and a minor who becomes six years of age after the first of December in any school year shall be required to attend upon full time instruction from the first day of session in the following September; and, except as otherwise provided in subdivision three of this section, shall be required to remain in attendance until the last day of session in the school year in which the minor becomes sixteen years of age.

2. Exceptions. a. A minor who has completed a four-year high school course of study shall not be subject to the provisions of part one of this article in respect to required attendance upon instruction.

b. A minor for whom application for a full-time employment certificate has been made and who is eligible therefore may, though unemployed, be permitted to attend part time school not less than twenty hours per week instead of full-time school.

c. The board of education of the Syracuse city school district, the board of education of the city school district of the city of New York, the board of education of the city school district of the city of Rochester, the board of education of the city school district of the city of Utica, the board of education of the city school district of the city of Buffalo the board of education of the city school district of the city of Cohoes, the board of education of the city school district of the city of Watervliet, and the board of education of the city school district of the city of Yonkers are hereby authorized to require minors who are five years of age on or before December first to attend kindergarten instruction. However, the provisions of this paragraph shall not apply to:

(i) Minors whose parents elect not to enroll their children in school until the following September.

(ii) Students enrolled in non-public schools or in-home instruction.

3. In each school district, the board of education shall have power to require minors from sixteen to seventeen years of age who are not employed to attend upon full time day instruction until the last day of session in the school year in which the student becomes seventeen years of age.

3210. Amount and character of required attendance.

1. Regularity and conduct.

a. A minor required by the provisions of part one of this article to attend upon instruction shall attend regularly as prescribed where he resides or is employed, for the entire time the appropriate public schools or classes are in session and shall be subordinate and orderly while so attending.

b. Absence for religious observance and education shall be permitted under rules that the commissioner shall establish.

c. In the event that a person requests the release of a minor required by the provisions of part one of this article to attend upon instruction, the identity of such person shall be verified against a list of names provided by the person or persons in parental relation to the minor, as defined in section two of this chapter, at the time of such minor's enrollment. The school district may adopt appropriate procedures for the purpose of submitting a list of names at a later date or updating the list of names provided by the person or persons in parental relation. If such person is identified as one of those persons included on such list, such minor may be released from attendance. If such person is identified as a person not included on such list, such minor may not be released except in the event of an emergency as determined in the sole discretion of the principal of the school, or his designee, provided that the person or persons in parental relation to the minor have been contacted and have agreed to such release. A school district may presume that either parent of the student has authority to obtain the release of said minor unless the school district has been provided with a certified copy of the legally binding instrument such as the court order or decree of divorce, separation or custody which provides evidence to the contrary. No situation shall be deemed an emergency until the facts of such situation have been verified by such principal or his designee. No civil or criminal liability shall arise or attach to any school district or employee thereof for any act or omission to act as a result of, or in connection with, the duties or activities authorized or directed by this paragraph. The foregoing procedure shall not apply to release of a minor pursuant to the protective custody provisions of the social services law and the family court act.

2. Attendance elsewhere than at a public school.

a. Hours of attendance. If a minor included by the provisions of part one of this article attends upon instruction elsewhere than at a public school, he shall attend for at least as many hours, and within the hours specified therefor.

b. Absence. Absence from required attendance shall be permitted only for causes allowed by the general rules and practices of the public schools. Absence for religious observance and education shall be permitted under rules that the commissioner shall establish.

c. Holidays and vacations. Holidays and vacations shall not exceed in total amount and number those allowed by the public schools.

d. Exception. In applying the foregoing requirements a minor required to attend upon full time day instruction by the provisions of part one of this article may be permitted to attend for a shorter school day or for a shorter school year or for both, provided, in accordance with the regulations of the state education department, the instruction he receives has been approved by the school authorities as being substantially equivalent in amount and quality to that required by the provisions of part one of this article.

3211. Records of attendance upon instruction.

1. Who shall keep such record. The teacher of every minor required by the provisions of part one of this article to attend upon instruction, or any other school district employee as may be designated by the commissioner of education under section three thousand twenty-four of this chapter, shall keep an accurate record of the attendance and absence of such minor. Such record shall be in such form as may be prescribed by the commissioner of education.
2. Certificates of attendance to be presumptive evidence. A duly certified transcript of the record of attendance and absence of a child which has been kept, as provided in this section, shall be accepted as presumptive evidence of the attendance of such child in any proceeding brought under the provisions of part one of this article.
3. Inspection of records of attendance. An attendance officer, or any other duly authorized representative of the school authorities, may at any time during school hours, demand the production of the records of attendance of minors required to be kept by the provisions of part one of this article, and may inspect or copy the same and make all proper inquiries of a teacher or principal concerning the records and the attendance of such minors.
4. Duties of principal or person in charge of the instruction of a minor. The principal of a school, or other person in charge of the instruction upon which a minor attends, as provided by part one of this article, shall cause the record of his attendance to be kept and produced and all appropriate inquiries in relation thereto answered as hereinbefore required. He shall give prompt notification in writing to the school authorities of the city or district of the discharge or transfer of any such minor from attendance upon instruction, stating the date of the discharge, its cause, the name of the minor, his date of birth, his place of residence prior to and following discharge, if such place of residence be known, and the name of the person in parental relation to the minor.

4111. Arrest of truants.

Any attendance officer may arrest without warrant anywhere within the state any Indian child between six and sixteen years of age, found away from his home and who is then a truant from instruction upon which he is lawfully required to attend within the districts of which such attendance officer has jurisdiction. He shall forthwith deliver a child so arrested either to the person in parental relation to the child, or to the teacher of the school from which said child is then a truant, or in case of habitual or incorrigible truants, shall bring them before a magistrate for commitment to a school for delinquents, as provided in section forty-one hundred twelve.

4112. Commissioner of education to contract for keeping of truants.

The commissioner of education may contract with any city or district having a school for delinquents, for the confinement, maintenance and instruction therein of any child who shall be committed to such school as a truant by any magistrate before whom such child shall have been examined upon the charge of truancy. The costs and expenses attending the support and maintenance of any truant, as herein provided, shall be audited by the commissioner of education and paid in the same manner as the expenses of supporting and maintaining the schools on a reservation are paid.

REGULATIONS

No relevant regulations found.

Substance use

LAWS

2801. Codes of conduct on school property.

2. The board of education or the trustees, as defined in section two of this chapter, of every school district within the state, however created, and every board of cooperative educational services and county vocational extension board, shall adopt and amend, as appropriate, a code of conduct for the maintenance of order on school property, including a school function, which shall govern the conduct of students, teachers and other school personnel as well as visitors and shall provide for the enforcement thereof... Such code of conduct shall include, at a minimum:

- d. disciplinary measures to be taken in incidents involving the possession or use of illegal substances or weapons, the use of physical force, vandalism, violation of another student's civil rights and threats of violence;

3028-a. Students under twenty-one years of age suspected of alcohol abuse or narcotic addiction.

Any teacher, school administrator, school guidance counselor, school psychologist, school drug counselor, school nurse, supervisor of attendance, attendance teacher or attendance officer having reasonable cause to suspect that a secondary or elementary student under twenty-one years of age is a substance or alcohol abuser or substance dependent, who report such information to the appropriate secondary or elementary school officials pursuant to the school's drug policy or if the school has no drug policy to the school's principal or the parents or legal guardians of such student under twenty-one years of age shall have immunity from any civil liability that might otherwise be incurred or imposed as a result of the making of such a report.

REGULATIONS

8 CRR-NY 100.2 (l)(2) Code of conduct.

- ii. The code of conduct shall include, but is not limited to:
 - f. disciplinary measures to be taken in incidents on school property or at school functions involving the possession or use of illegal substances or weapons, the use of physical force, vandalism, violation of another student's civil rights, harassment and threats of violence;

Bullying, harassment, or hazing

LAWS

10. Legislative intent.

The legislature finds that students' ability to learn and to meet high academic standards, and a school's ability to educate its students, are compromised by incidents of discrimination or harassment including bullying, taunting or intimidation. It is hereby declared to be the policy of the state to afford all students in public schools an environment free of discrimination and harassment. The purpose of this article is to foster civility in public schools and to prevent and prohibit conduct which is inconsistent with a school's educational mission.

11. Definitions.

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

3. "Disability" shall mean disability as defined in subdivision twenty-one of section two hundred ninety-two of the executive law.
4. "Employee" shall mean employee as defined in subdivision three of section eleven hundred twenty-five of this title.
5. "Sexual orientation" shall mean actual or perceived heterosexuality, homosexuality or bisexuality.
6. "Gender" shall mean actual or perceived sex and shall include a person's gender identity or expression.
7. "Harassment" and "bullying" shall mean the creation of a hostile environment by conduct or by threats, intimidation or abuse, including cyberbullying, that (a) has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional or physical well-being; or (b) reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety; or (c) reasonably causes or would reasonably be expected to cause physical injury or emotional harm to a student; or (d) occurs off school property and creates or would foreseeably create a risk of substantial disruption within the school environment, where it is foreseeable that the conduct, threats, intimidation or abuse might reach school property. Acts of harassment and bullying shall include, but not be limited to, those acts based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex. For the purposes of this definition the term "threats, intimidation or abuse" shall include verbal and non-verbal actions.
8. "Cyberbullying" shall mean harassment or bullying as defined in subdivision seven of this section, including paragraphs (a), (b), (c) and (d) of such subdivision, where such harassment or bullying occurs through any form of electronic communication.
9. "Race" shall, for the purposes of this article include traits historically associated with race, including but not limited to, hair texture and protective hairstyles.
10. "Protective hairstyles" shall include, but not be limited to, such hairstyles as braids, locks, and twists.

12. Discrimination and harassment prohibited.

1. No student shall be subjected to harassment by employees or students on school property or at a school function; nor shall any student be subjected to discrimination based on a person's actual or perceived race, color, disability, sexual orientation, gender, or sex by school employees or students on school property or at a school function. Nothing in this subdivision shall be construed to prohibit a denial of admission into or exclusion from, a course of instruction based on a person's gender; that would be permissible under section thirty-two hundred one-a or paragraph (a) of subdivision two of section twenty-eight hundred fifty-four of this chapter and Title IX of the Education Amendments of 1972 (20 U.S.C. section 1681, et seq), or to prohibit, as discrimination based on disability, actions that would be permissible under section 504 of the Rehabilitation Act of 1973.
2. An age-appropriate version of the policy outlined in subdivision one of this section, written in plain-language, shall be included in the code of conduct adopted by boards of education and the trustees or sole trustee pursuant to section twenty-eight hundred one of this chapter and a summary of such policy shall be included in any summaries required by such section twenty-eight hundred one".

13. Policies and guidelines.

The board of education and the trustees or sole trustee of every school district shall create policies and guidelines that shall include, but not be limited to:

1. Policies and procedures intended to create a school environment that is free from harassment, bullying and discrimination, that include but are not limited to provisions which:

- a. identify the principal, superintendent or the principal's or superintendent's designee as the school employee charged with receiving reports of harassment, bullying and discrimination;
 - b. enable students and parents to make an oral or written report of harassment, bullying or discrimination to teachers, administrators and other school personnel that the school district deems appropriate;
 - c. require school employees who witness harassment, bullying or discrimination, or receive an oral or written report of harassment, bullying or discrimination, to promptly orally notify the principal, superintendent or the principal's or superintendent's designee not later than one school day after such school employee witnesses or receives a report of harassment, bullying or discrimination, and to file a written report with the principal, superintendent or the principal or superintendent's designee not later than two school days after making such oral report;
 - d. require the principal, superintendent or the principal's or superintendent's designee to lead or supervise the thorough investigation of all reports of harassment, bullying and discrimination, and to ensure that such investigation is completed promptly after receipt of any written reports made under this section;
 - e. require the school, when an investigation reveals any such verified harassment, bullying or discrimination, to take prompt actions reasonably calculated to end the harassment, bullying or discrimination, eliminate any hostile environment, create a more positive school culture and climate, prevent recurrence of the behavior, and ensure the safety of the student or students against whom such harassment, bullying or discrimination was directed. Such actions shall be consistent with the guidelines created pursuant to subdivision four of this section;
 - f. prohibit retaliation against any individual who, in good faith, reports, or assists in the investigation of, harassment, bullying or discrimination;
 - g. include a school strategy to prevent harassment, bullying and discrimination;
 - h. require the principal to make a regular report on data and trends related to harassment, bullying and discrimination to the superintendent;
 - i. require the principal, superintendent or the principal's or superintendent's designee, to notify promptly the appropriate local law enforcement agency when such principal, superintendent or the principal's or superintendent's designee, believes that any harassment, bullying or discrimination constitutes criminal conduct;
 - j. include appropriate references to the provisions of the school district's code of conduct adopted pursuant to section twenty-eight hundred one of this chapter that are relevant to harassment, bullying and discrimination;
 - k. require each school, at least once during each school year, to provide all school employees, students and parents with a written or electronic copy of the school district's policies created pursuant to this section, or a plain-language summary thereof, including notification of the process by which students, parents and school employees may report harassment, bullying and discrimination. This subdivision shall not be construed to require additional distribution of such policies and guidelines if they are otherwise distributed to school employees, students and parents;
 - l. maintain current versions of the school district's policies created pursuant to this section on the school district's internet website, if one exists;
2. Guidelines to be used in school training programs to discourage the development of harassment, bullying and discrimination, and to make school employees aware of the effects of harassment, bullying, cyberbullying and discrimination on students and that are designed:
- a. to raise the awareness and sensitivity of school employees to potential harassment, bullying and discrimination, and

- b. to enable employees to prevent and respond to harassment, bullying and discrimination; and
- 3. Guidelines relating to the development of nondiscriminatory instructional and counseling methods, and requiring that at least one staff member at every school be thoroughly trained to handle human relations in the areas of race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, and sex; and
- 4. Guidelines relating to the development of measured, balanced and age-appropriate responses to instances of harassment, bullying or discrimination by students, with remedies and procedures following a progressive model that make appropriate use of intervention, discipline and education, vary in method according to the nature of the behavior, the developmental age of the student and the student's history of problem behaviors, and are consistent with the district's code of conduct
- 5. Training required by this section shall address the social patterns of harassment, bullying and discrimination, as defined in section eleven of this article, including but not limited to those acts based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex, the identification and mitigation of harassment, bullying and discrimination, and strategies for effectively addressing problems of exclusion, bias and aggression in educational settings.

14. Commissioner's responsibilities.

The commissioner shall:

- 4. Provide guidance and educational materials to school districts related to best practices in addressing cyberbullying and helping families and communities work cooperatively with schools in addressing cyberbullying, whether on or off school property or at or away from a school function.

16. Protection of people who report harassment, bullying or discrimination.

Any person having reasonable cause to suspect that a student has been subjected to harassment, bullying or discrimination, by an employee or student, on school grounds or at a school function, who, acting reasonably and in good faith, reports such information to school officials, to the commissioner or to law enforcement authorities, acts in compliance with paragraph e or i of subdivision one of section thirteen of this article, or otherwise initiates, testifies, participates or assists in any formal or informal proceedings under this article, shall have immunity from any civil liability that may arise from the making of such report or from initiating, testifying, participating or assisting in such formal or informal proceedings, and no school district or employee shall take, request or cause a retaliatory action against any such person who, acting reasonably and in good faith, either makes such a report or initiates, testifies, participates or assists in such formal or informal proceedings.

17. Application.

Nothing in this article shall:

- 1. Apply to private, religious or denominational educational institutions; or
- 2. Preclude or limit any right or cause of action provided under any local, state or federal ordinance, law or regulation including but not limited to any remedies or rights available under the Individuals With Disabilities Education Act, Title VII of the Civil Rights Law of 1964, section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act of 1990.

18. Severability and construction.

The provisions of this article shall be severable, and if any court of competent jurisdiction declares any phrase, clause, sentence or provision of this article to be invalid, or its applicability to any government agency, person or circumstance is declared invalid, the remainder of this article and its relevant

applicability shall not be affected. The provisions of this article shall be liberally construed to give effect to the purposes thereof.

801-a. Instruction in civility, citizenship and character education.

The regents shall ensure that the course of instruction in grades kindergarten through twelve includes a component on civility, citizenship and character education. Such component shall instruct students on the principles of honesty, tolerance, personal responsibility, respect for others, with an emphasis on discouraging acts of harassment, bullying, discrimination, observance of laws and rules, courtesy, dignity and other traits which will enhance the quality of their experiences in, and contributions to, the community. Such component shall include instruction of safe, responsible use of the internet and electronic communications. The regents shall determine how to incorporate such component in existing curricula and the commissioner shall promulgate any regulations needed to carry out such determination of the regents. For the purposes of this section, "tolerance," "respect for others" and "dignity" shall include awareness and sensitivity to harassment, bullying, discrimination and civility in the relations of people of different races, weights, national origins, ethnic groups, religions, religious practices, mental or physical abilities, sexual orientations, genders, and sexes.

REGULATIONS

8 CRR-NY 100.2 (l)(2) Code of conduct.

ii. The code of conduct shall include, but is not limited to:

b. provisions prohibiting discrimination and harassment against any student, by employees or students on school property or at a school function, that creates a hostile environment by conduct, with or without physical contact and/or by verbal threats, intimidation or abuse, of such a severe nature that:

1. has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional and/or physical well-being; or
2. reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety.

Such conduct shall include, but is not limited to, threats, intimidation, or abuse based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practices, disability, sexual orientation, gender as defined in Education Law §11(6), or sex; provided that nothing in this subdivision shall be construed to prohibit a denial of admission into, or exclusion from, a course of instruction based on a person's gender that would be permissible under Education Law sections 3201-a or 2854(2) (a) and Title IX of the Education Amendments of 1972 (20 U.S.C. section 1681, et seq.), or to prohibit, as discrimination based on disability, actions that would be permissible under section 504 of the Rehabilitation Act of 1973;

f. disciplinary measures to be taken in incidents on school property or at school functions involving the possession or use of illegal substances or weapons, the use of physical force, vandalism, violation of another student's civil rights, harassment and threats of violence;

g. provisions for responding to acts of discrimination and harassment against students by employees or students on school property or at a school function pursuant to clause (b) of this subparagraph;

8 CRR-NY 100.2 (j). Dignity for all students school employee training program.

1. Definitions. As used in this subdivision:

- i. "School property" means in or within any building, structure, athletic playing field, playground, parking lot or land contained within the real property boundary line of a public elementary or secondary school, including a charter school; or in or on a school bus, as defined in Vehicle and Traffic Law section 142.
 - ii. "School function" means a school-sponsored extracurricular event or activity.
 - iii. "Disability" means disability as defined in Executive Law section 292(21).
 - iv. "Employee" means an employee as defined in Education Law section 1125(3), including an employee of a charter school.
 - v. "Sexual orientation" means actual or perceived heterosexuality, homosexuality or bisexuality.
 - vi. "Gender" means actual or perceived sex and shall include a person's gender identity or expression.
 - vii. "Discrimination" means discrimination against any student by a student or students and/or an employee or employees on school property or at a school function including, but not limited to, discrimination based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex.
 - viii. "Harassment" means the creation of a hostile environment by conduct or by verbal threats, intimidation or abuse that has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional or physical well-being; or conduct, verbal threats, intimidation or abuse that reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety; such conduct, verbal threats, intimidation or abuse includes but is not limited to conduct, verbal threats, intimidation or abuse based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex.
2. On or before July 1, 2012, each school district and each charter school shall establish guidelines for its school or schools to implement, commencing with the 2012-2013 school year and continuing in each school year thereafter, Dignity for All Students school employee training programs to promote a positive school environment that is free from discrimination and harassment; and to discourage and respond to incidents of discrimination and/or harassment on school property or at a school function. Such guidelines shall be approved by the board of education, trustees or sole trustee of the school district (or by the chancellor of the city school district, in the case of the City School District of the City of New York) or by the board of trustees of the charter school.
3. The guidelines shall include, but not be limited to, providing employees, including school and district administrators and instructional and non-instructional staff, with:
- i. training to:
 - a. raise awareness and sensitivity to potential acts of discrimination and/or harassment directed at students that are committed by students and/or school employees on school property or at a school function; including, but not limited to, discrimination and/or harassment based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex; and
 - b. training to enable employees to prevent and respond to incidents of discrimination and/or harassment;
 - c. such training may be implemented and conducted in conjunction with existing professional development training pursuant to subparagraph 100.2(dd)(2)(ii) of this Title and/or with any other training for school employees; and
 - ii. guidelines relating to the development of nondiscriminatory instructional and counseling methods.
4. At least one employee in every school shall be designated as a Dignity Act Coordinator and instructed in the provisions of this subdivision and thoroughly trained to handle human relations in the areas of race,

color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, and sex.

- i. The designation of each Dignity Act Coordinator shall be approved by the board of education, trustees or sole trustee of the school district (or in the case of the City School District of the City of New York, by the principal of the school in which the designated employee is employed) or, in the case of a charter school, by the board of trustees.
- ii. The name(s) and contact information for the Dignity Act Coordinator(s) shall be shared with all school personnel, students, and persons in parental relation, which shall include, but is not limited to, providing the name, designated school and contact information of each Dignity Act Coordinator by:
 - a. listing such information in the code of conduct and updates posted on the Internet web site, if available, of the school or school district, or of the board of cooperative educational services, pursuant to subclause 100.2(l)(2)(iii)(b)(1) of this Part;
 - b. including such information in the plain language summary of the code of conduct provided to all persons in parental relation to students before the beginning of each school year, pursuant to subclause 100.2(l)(2)(iii)(b)(3);
 - c. providing such information to parents and persons in parental relation in at least one per school year district or school mailing or other method of distribution including, but not limited to, sending such information home with each student and, if such information changes, in at least one subsequent district or school mailing or other such method of distribution as soon as practicable thereafter;
 - d. posting such information in highly-visible areas of school buildings; and
 - e. making such information available at the district and school-level administrative offices.
- iii. In the event a Dignity Act Coordinator vacates his or her position, another school employee shall be immediately designated for an interim appointment as Coordinator, pending approval of a successor Coordinator by the applicable governing body as set forth in subparagraph (i) of this paragraph within 30 days of the date the position was vacated. In the event a Coordinator is unable to perform the duties of his or her position for an extended period of time, another school employee shall be immediately designated for an interim appointment as Coordinator, pending return of the previous Coordinator to his or her duties as Coordinator.

5. Nothing in this subdivision shall be construed to prohibit a denial of admission into, or exclusion from, a course of instruction based on a person's gender that would be permissible under Education Law sections 3201-a or 2854(2)(a) and Title IX of the Education Amendments of 1972 (20 U.S.C. section 1681, et seq.), or to prohibit, as discrimination based on disability, actions that would be permissible under section 504 of the Rehabilitation Act of 1973.

8 CRR-NY 100.2 (kk). Dignity Act reporting requirements.

1. Definitions. For purposes of this subdivision:

1. "School property" means in or within any building, structure, athletic playing field, playground, parking lot, or land contained within the real property boundary line of a public elementary or secondary school, including a charter school; or in or on a school bus, as defined in Vehicle and Traffic Law section 142.
2. "School function" means a school-sponsored extracurricular event or activity.
3. "Disability" means disability as defined in Executive Law section 292(21).
4. "Employee" means employee as defined in Education Law section 1125(3), including an employee of a charter school.
5. "Sexual orientation" means actual or perceived heterosexuality, homosexuality or bisexuality.
6. "Gender" means actual or perceived sex and shall include a person's gender identity or expression.

7. "Discrimination" means discrimination against any student by a student or students and/or an employee or employees on school property or at a school function including, but not limited to, discrimination based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex.

8. "Harassment" means the creation of a hostile environment by conduct or by verbal threats, intimidation or abuse that has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional or physical well-being; or conduct, verbal threats, intimidation or abuse that reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety; such conduct, verbal threats, intimidation or abuse includes but is not limited to conduct, verbal threats, intimidation or abuse based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex.

9. "Material Incident of Discrimination and/or Harassment" means a single incident or a series of related incidents where a student is subjected to discrimination and/or harassment by a student and/or employee on school property or at a school function that creates a hostile environment by conduct, with or without physical contact and/or by verbal threats, intimidation or abuse, of such severe or pervasive nature that:

- a. has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional and/or physical well-being; or
- b. reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety.

Such conduct shall include, but is not limited to, threats, intimidation or abuse based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex; provided that nothing in this subdivision shall be construed to prohibit a denial of admission into, or exclusion from, a course of instruction based on a person's gender that would be permissible under Education Law sections 3201-a or 2854(2)(a) and Title IX of the Education Amendments of 1972 (20 U.S.C. section 1681, et seq.), or to prohibit, as discrimination based on disability, actions that would be permissible under section 504 of the Rehabilitation Act of 1973.

2. Reporting of incidents.

i. For the 2012-2013 school year and for each succeeding school year thereafter, each school district, board of cooperative educational services (BOCES) and charter school shall submit to the commissioner an annual report of material incidents of discrimination and/or harassment that occurred in such school year, in accordance with Education Law section 15 and this subdivision. Such report shall be submitted in a manner prescribed by the commissioner, on or before the basic educational data system (BEDS) reporting deadline or such other date as determined by the commissioner.

ii. For purposes of reporting pursuant to this subdivision, a school district, BOCES or charter school shall include in its annual report all material incidents of discrimination and/or harassment that:

- a. are the result of the investigation of a written or oral complaint made to the school principal or other school administrator responsible for school discipline, or to any other employee; or
- b. are otherwise directly observed by such principal or administrator, or by any other employee regardless of whether a complaint is made.

iii. Such report shall include information describing the specific nature of the incident, including, but not limited to:

- a. the type(s) of bias involved (actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, sex, or other). Where multiple types of bias are involved, they shall all be reported;
 - b. whether the incident resulted from student and/or employee conduct;
 - c. whether the incident involved physical contact and/or verbal threats, intimidation or abuse; and
 - d. the location where the incident occurred (on school property or at a school function).
3. Protection of people who report discrimination and/or harassment.
- i. Pursuant to Education Law section 16, any person having reasonable cause to suspect that a student has been subjected to discrimination and/or harassment by an employee or student, on school grounds or at a school function, who acting reasonably and in good faith, either reports such information to school officials, to the commissioner, or to law enforcement authorities or otherwise initiates, testifies, participates or assists in any formal or informal proceedings under this subdivision, shall have immunity from any civil liability that may arise from the making of such report or from initiating, testifying, participating or assisting in such formal or informal proceedings.
 - ii. No school district, BOCES or charter school, or an employee thereof, shall take, request or cause a retaliatory action against any such person who, acting reasonably and in good faith, either makes such a report or initiates, testifies, participates or assists in such formal or informal proceedings.

Other special infractions or conditions

LAWS

2503-a. Powers of boards of education to ban fraternities, sororities and other secret societies.

1. In its discretion, the board of education of each school district, may adopt rules and regulations to abolish and/or prohibit any fraternity, sorority or other secret society in any secondary school under its jurisdiction.
2. Prior to the adoption and promulgation of a rule or regulation in accordance with the provisions of subdivision one of this section by any board of education of a school district, the board of education of the school district must find that the fraternity, sorority or secret society group has by virtue of its activities caused or created a disruption of or interference with the academic processes of any secondary school within its jurisdiction or caused or created any interference with or disruption of the academic progress of any individual student or students in any secondary school within its jurisdiction.
3. For the purposes of this chapter a fraternity, sorority, or secret society shall mean any organization composed wholly or in part of pupils enrolled in public secondary schools which exists or seeks to perpetuate itself by taking in additional members from the pupils enrolled in such schools on the decision of the membership rather than upon the free choice of any pupil in such school but shall not be construed to include organizations institutionally sponsored by agencies of public welfare, the Boy Scouts of America, the Girl Scouts of America, the Campfire Girls, Young Men's Christian Association, Young Women's Christian Association, Young Men's Hebrew Association, Young Women's Hebrew Association, Catholic Youth Organization, Kiwanis International, Hi-Y or other similar organizations without limitation to the foregoing.
4. Upon and after the adoption and promulgation of a rule or regulation in accordance with the provisions of subdivision one of this section by the board of education of any such school district, such board of education may in any secondary school under its jurisdiction discipline any pupil who shall promise to join, or shall become a member of, or shall remain a member of, or shall solicit other persons to join any such fraternity, sorority or secret society.

2554-a. Powers of boards of education to ban fraternities, sororities and other secret societies.

1. In its discretion, the board of education of each school district, may adopt rules and regulations to abolish and/or prohibit any fraternity, sorority or other secret society in any secondary school under its jurisdiction.
2. Prior to the adoption and promulgation of a rule or regulation in accordance with the provisions of subdivision one of this section by any board of education of a school district, the board of education of the school district must find that the fraternity, sorority or secret society group has by virtue of its activities caused or created a disruption of or interference with the academic processes of any secondary school within its jurisdiction or caused or created any interference with or disruption of the academic progress of any individual student or students in any secondary school within its jurisdiction.
3. For the purposes of this chapter a fraternity, sorority or secret society shall mean any organization composed wholly or in part of pupils enrolled in public secondary schools which exists or seeks to perpetuate itself by taking in additional members from the pupils enrolled in such schools on the decision of the membership rather than upon the free choice of any pupil in such school but shall not be construed to include organizations institutionally sponsored by agencies of public welfare, the Boy Scouts of America, the Girl Scouts of America, the Campfire Girls, Young Men's Christian Association, Young Women's Christian Association, Young Men's Hebrew Association, Young Women's Hebrew Association, Catholic Youth Organization, Kiwanis International, Hi-Y or other similar organizations without limitation to the foregoing.
4. Upon and after the adoption and promulgation of a rule or regulation in accordance with the provisions of subdivision one of this section by the board of education of any such school district, such board of education may in any secondary school under its jurisdiction discipline any pupil who shall promise to join, or shall become a member of, or shall remain a member of, or shall solicit other persons to join any such fraternity, sorority or secret society.

2801. Codes of conduct on school property.

2. The board of education or the trustees, as defined in section two of this chapter, of every school district within the state, however created, and every board of cooperative educational services and county vocational extension board, shall adopt and amend, as appropriate, a code of conduct for the maintenance of order on school property, including a school function, which shall govern the conduct of students, teachers and other school personnel as well as visitors and shall provide for the enforcement thereof... Such code of conduct shall include, at a minimum:

- m. a minimum suspension period for acts that would qualify the pupil to be defined as a violent pupil pursuant to paragraph a of subdivision two-a of section thirty-two hundred fourteen of this chapter, provided that the suspending authority may reduce such period on a case by case basis to be consistent with any other state and federal law;

3214. Student placement, suspensions and transfers.

2-a. a. Violent pupil. For the purposes of this section, a violent pupil is an elementary or secondary student under twenty-one years of age who:

- (1) commits an act of violence upon a teacher, administrator or other school employee;
- (2) commits, while on school district property, an act of violence upon another student or any other person lawfully upon said property;
- (3) possesses, while on school district property, a gun, knife, explosive or incendiary bomb, or other dangerous instrument capable of causing physical injury or death;
- (4) displays, while on school district property, what appears to be a gun, knife, explosive or incendiary bomb or other dangerous instrument capable of causing death or physical injury;

(5) threatens, while on school district property, to use any instrument that appears capable of causing physical injury or death;

(6) knowingly and intentionally damages or destroys the personal property of a teacher, administrator, other school district employee or any person lawfully upon school district property; or

(7) knowingly and intentionally damages or destroys school district property.

b. Disruptive pupil. For the purposes of this section, a disruptive pupil is an elementary or secondary student under twenty-one years of age who is substantially disruptive of the educational process or substantially interferes with the teacher's authority over the classroom.

REGULATIONS

8 CRR-NY 100.2 (l)(2) Code of conduct.

ii. The code of conduct shall include, but is not limited to:

p. a minimum suspension period for acts that would qualify the pupil to be defined as a violent pupil pursuant to Education Law section 3214(2-a)(a), provided that the suspending authority may reduce such period on a case- by-case basis to be consistent with any other State and Federal Law;

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

LAWS

13. Policies and guidelines.

The board of education and the trustees or sole trustee of every school district shall create policies and guidelines that shall include, but not be limited to:

1. Policies and procedures intended to create a school environment that is free from harassment, bullying and discrimination, that include but are not limited to provisions which:
 - g. include a school strategy to prevent harassment, bullying and discrimination;

801-a. Instruction in civility, citizenship and character education.

The regents shall ensure that the course of instruction in grades kindergarten through twelve includes a component on civility, citizenship and character education. Such component shall instruct students on the principles of honesty, tolerance, personal responsibility, respect for others, with an emphasis on discouraging acts of harassment, bullying, discrimination, observance of laws and rules, courtesy, dignity and other traits which will enhance the quality of their experiences in, and contributions to, the community. Such component shall include instruction of safe, responsible use of the internet and electronic communications. The regents shall determine how to incorporate such component in existing curricula and the commissioner shall promulgate any regulations needed to carry out such determination of the regents. For the purposes of this section, "tolerance," "respect for others" and "dignity" shall include awareness and sensitivity to harassment, bullying, discrimination and civility in the relations of people of different races, weights, national origins, ethnic groups, religions, religious practices, mental or physical abilities, sexual orientations, genders, and sexes.

804. Health education regarding mental health, alcohol, drugs, tobacco abuse and the prevention and detection of certain cancers.

1. All schools shall ensure that their health education programs recognize the multiple dimensions of health by including mental health and the relation of physical and mental health so as to enhance student understanding, attitudes and behaviors that promote health, well-being and human dignity.
2. All schools shall include, as an integral part of health education, instruction so as to discourage the misuse and abuse of alcohol, tobacco and other drugs and promote attitudes and behavior that enhance health, well being, and human dignity.
3. Instruction regarding alcohol, tobacco, and other drugs shall be included in the health education provided for all elementary school pupils and shall be taught by the regular classroom teachers or by teachers certified to teach health education. Such instruction shall be designed according to the needs and abilities of the pupils at successive grade levels with the purpose of developing desirable health behavior, attitudes, and knowledge as well as self-reliance and problem-solving capacity.
4. Instruction regarding alcohol, tobacco, and other drugs, in addition to continued health guidance in the junior high school grades and the senior high schools, shall be an integral part of a required health education course at each of these levels in the secondary school's curriculum. Students shall be required to demonstrate knowledge in the subject area through the use of a test, graded project or report, or any other means prescribed by the school authorities regarding alcohol, drugs, and tobacco. Any such course shall be taught by teachers holding a certificate to teach health. Related courses in the secondary school curriculum shall be taught in a manner supportive of health education regarding alcohol, tobacco, and

other drugs. In addition, instruction regarding the dangers of driving while under the influence of alcohol or drugs shall be an integral part of a required health education course in the senior high schools. Such instruction shall be provided in all senior high schools whether or not these schools also provide driver education courses.

5. Instruction regarding methods of prevention and detection of certain cancers, including but not limited to breast cancer, skin cancer, testicular cancer and other cancers where certain preventive measures have become generally accepted and certain detection methods have been adopted and recommended generally to the public. Such instruction shall be an integral part of a required health education course at the senior high school level, in addition to continued health guidance in senior high schools. Any such course shall be taught by teachers holding a certificate to teach health.

6. a. The commissioner may prescribe in regulations such health education courses which include instruction regarding alcohol, tobacco, and other drugs as the commissioner may deem necessary and desirable for the welfare of pupils and the community. The contents may be varied to meet the needs of particular school districts, or portions thereof, and need not be uniform throughout the state, provided, however, that school districts shall utilize either the curriculum for health education instruction regarding alcohol, tobacco and other drugs prescribed by the commissioner or a course approved by the commissioner in accordance with criteria established by the commissioner. The commissioner is authorized to make recommendations to the board of regents beginning December first, two thousand fourteen and every three years thereafter relating to the modernization of such instruction required pursuant to subdivision one of this section, to include the most up to date age appropriate information available regarding the misuse and abuse of alcohol, tobacco and other drugs, including but not limited to heroin and opioids. Such instruction shall include, but not be limited to, information regarding drugs and other substances that are more prevalent among school aged youth. Such recommendations shall be the result of a collaboration between the department, the office of alcoholism and substance abuse services and the department of health. If the board of regents adopts such curriculum, the curriculum requirement shall take effect no later than the next school year after such curriculum has been adopted.

b. The commissioner shall make available an interpersonal violence prevention education package for grades kindergarten through twelve, which package may consist of student pamphlets, parent pamphlets, videotapes and other informative materials to be distributed to school districts and shall encourage the use of such material as part of the health or other related curricula or programs.

c. The regents shall review the health curriculum requirements in existence on the effective date of this paragraph for the purpose of streamlining such curriculum and identifying any outdated components that may be eliminated or consolidated in order to ensure that students have sufficient time and instruction to develop skills to address issues of violence prevention and mental health. To the extent appropriate, the regents shall modify the existing curriculum to provide greater focus on the development of skills, by no later than middle school, that are needed to recognize, cope with and address potentially violent incidents including an understanding of student roles in emergency situations and other related skills designed to reduce the threat of violence in schools.

7. School authorities shall provide the needed facilities, time, and place for the instruction set forth herein and shall provide learning aids and curriculum resource materials which contribute to effective teaching methods and learning in health education regarding alcohol, tobacco, and other drugs.

8. All pre-service training programs in the state for elementary teachers shall include adequate preparation regarding the instruction in alcohol, tobacco, and other drugs set forth herein, and no teacher shall be licensed except upon satisfactory demonstration of the competencies included in the institutional proposals approved by the department.

9. Nothing contained in this section shall be deemed to diminish or impair the duties of the commissioner with respect to the continuing program for critical health problems established by chapter seven hundred

eighty-seven of the laws of nineteen hundred sixty-seven as amended. The commissioner shall coordinate actions taken under authority of this section with the provisions of said chapter as they relate to health education in schools, in-service training and training programs, and curriculum or syllabus development regarding the deleterious effects resulting from the use, misuse, and abuse of alcohol, tobacco, and other drugs.

814. Courses of study in internet safety.

1. Any school district in the state may provide, to pupils in grades kindergarten through twelve, instruction designed to promote the proper and safe use of the internet.
2. The commissioner shall provide technical assistance to assist in the development of curricula for such courses of study which shall be age appropriate and developed according to the needs and abilities of pupils at successive grade levels in order to provide awareness, skills, information and support to aid in the safe usage of the internet.
3. The commissioner shall develop age-appropriate resources and technical assistance for schools to provide to students in grades three through twelve and their parents or legal guardians concerning the safe and responsible use of the internet. The resources shall include, but not be limited to, information regarding how child predators may use the internet to lure and exploit children, protecting personal information, internet scams and cyber-bullying.

2814. Omnibus school violence prevention grant program.

1. Within amounts appropriated for implementation of extended day programs and school violence prevention programs, the commissioner is hereby authorized and directed to award grants on a competitive basis to school districts. Such grants shall be for one or more of the following pursuant to this section: school safety and violence prevention programs consistent with the purposes of the school safety plans required by section twenty-eight hundred one-a of this article and extended day activities defined in this section. School districts shall be prohibited from using funds awarded pursuant to this section to displace school district after-school funding in existence as of the effective date of this article.
 - a. School safety activities. Programs eligible for funding pursuant to this section may include, but not be limited to: (i) safe corridors programs; (ii) diversity programs; (iii) collaborative school safety programs with law enforcement agencies or community-based organizations; (iv) metal detectors, intercom and other intra-school communication devices and other devices to increase school security and the safety of school personnel and students; (v) other programs including comprehensive school-based intervention models, approved by the commissioner, that reduce violence and improve school safety. Comprehensive school based intervention models shall coordinate with and collaborate with other services currently being provided in the school district, incorporate appropriate school violence prevention and intervention services, and coordinate appropriate funding sources to ensure the efficient delivery of services. Such comprehensive school-based intervention models shall also include provisions for the involvement of teachers, parents, school administrators in the development and implementation of the program, a detailed statement identifying specific performance goals, a proposed timetable for implementation and achievement of such goals and specific assessment methods which will be used to measure student and school progress.
 - b. Extended day activities.
 - (i) Eligible extended day activities under this paragraph shall be for programs conducted outside the regular school day whereby students can participate in extra-curricular enrichment activities including but not limited to athletics, academic enrichment, art, music, drama, academic tutoring, mentoring, community services and related programs that will increase student achievement and contribute to school violence prevention. Such activities conducted outside the regular school day shall be offered collaboratively between not-for-profit educational organizations, community based organizations,

other agencies approved by the commissioner and public elementary or secondary schools, and where applicable, school districts.

(ii) Grantees receiving funding pursuant to this subdivision may expend no more than five percent of grants for administration and no more than five percent for grantee training.

2. In the event the appropriation for the purposes of this section in any year is insufficient to pay all claims pursuant to this subdivision, the commissioner shall pay such claims on a prorated basis among all districts filing such claims until the appropriation is exhausted.

3. Programs supported by grants pursuant to this section shall not be eligible aid pursuant to any other provision of this chapter.

REGULATIONS

8 CRR-NY 100.2 (c). Instruction in certain subjects.

Pursuant to articles 2, 17 and 65 of the Education Law, instruction in certain subjects in elementary and secondary school shall be provided as follows:

2. for all public school students, instruction that supports development of a school environment free of discrimination and harassment, as required by the Dignity For All Students Act (article 2 of the Education Law), including but not limited to instruction that raises awareness and sensitivity to discrimination or harassment based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex ; provided that in public schools other than charter schools, such instruction shall be provided as part of a component on civility, citizenship and character education in accordance with section 801-a of the Education Law;

4. for all students, health education regarding alcohol, drugs and tobacco abuse, as required by section 804 of the Education Law;

Behavioral interventions and student support services

LAWS

13. Policies and guidelines.

The board of education and the trustees or sole trustee of every school district shall create policies and guidelines that shall include, but not be limited to:

4. Guidelines relating to the development of measured, balanced and age-appropriate responses to instances of harassment, bullying or discrimination by students, with remedies and procedures following a progressive model that make appropriate use of intervention, discipline and education, vary in method according to the nature of the behavior, the developmental age of the student and the student's history of problem behaviors, and are consistent with the district's code of conduct

Reference CR 201.4 (a)

2801. Codes of conduct on school property.

2. The board of education or the trustees, as defined in section two of this chapter, of every school district within the state, however created, and every board of cooperative educational services and county vocational extension board, shall adopt and amend, as appropriate, a code of conduct for the maintenance of order on school property, including a school function, which shall govern the conduct of students, teachers and other school personnel as well as visitors and shall provide for the enforcement thereof[...]. Such code of conduct shall include, at a minimum:

k. circumstances under and procedures by which referral to appropriate human service agencies shall be made;

2814. Omnibus school violence prevention grant program.

1. Within amounts appropriated for implementation of extended day programs and school violence prevention programs, the commissioner is hereby authorized and directed to award grants on a competitive basis to school districts. Such grants shall be for one or more of the following pursuant to this section: school safety and violence prevention programs consistent with the purposes of the school safety plans required by section twenty-eight hundred one-a of this article and extended day activities defined in this section. School districts shall be prohibited from using funds awarded pursuant to this section to displace school district after-school funding in existence as of the effective date of this article.

a. School safety activities. Programs eligible for funding pursuant to this section may include, but not be limited to: (i) safe corridors programs; (ii) diversity programs; (iii) collaborative school safety programs with law enforcement agencies or community-based organizations; (iv) metal detectors, intercom and other intra-school communication devices and other devices to increase school security and the safety of school personnel and students; (v) other programs including comprehensive school-based intervention models, approved by the commissioner, that reduce violence and improve school safety. Comprehensive school based intervention models shall coordinate with and collaborate with other services currently being provided in the school district, incorporate appropriate school violence prevention and intervention services, and coordinate appropriate funding sources to ensure the efficient delivery of services. Such comprehensive school-based intervention models shall also include provisions for the involvement of teachers, parents, school administrators in the development and implementation of the program, a detailed statement identifying specific performance goals, a proposed timetable for implementation and achievement of such goals and specific assessment methods which will be used to measure student and school progress.

REGULATIONS

8 CRR-NY 100.2 (l)(2) Code of conduct.

ii. The code of conduct shall include, but is not limited to:

n. circumstances under and procedures by which referral to appropriate human service agencies shall be made;

8 CRR-NY 200.1. Functional behavioral assessment.

(r) Functional behavioral assessment means the process of determining why the student engages in behaviors that impede learning and how the student's behavior relates to the environment. The functional behavioral assessment shall be developed consistent with the requirements in section 200.22(a) of this Part and shall include, but is not limited to, the identification of the problem behavior, the definition of the behavior in concrete terms, the identification of the contextual factors that contribute to the behavior (including cognitive and affective factors) and the formulation of a hypothesis regarding the general conditions under which a behavior usually occurs and probable consequences that serve to maintain it.

8 CRR-NY 200.1. Behavioral intervention plan.

(mmm) Behavioral intervention plan means a plan that is based on the results of a functional behavioral assessment and, at a minimum, includes a description of the problem behavior, global and specific hypotheses as to why the problem behavior occurs and intervention strategies that include positive behavioral supports and services to address the behavior.

8 CRR-NY 200.6 (n). Interim alternative education setting (IAES).

Students with disabilities who have been suspended or removed from their current placement for more than 10 school days pursuant to Part 201 of this Title may be placed in an IAES. The IAES, to the extent provided in Part 201 of this Title, shall be an educational setting, other than the student's current placement at the time the behavior precipitating the IAES placement occurred. A student placed in an IAES shall:

- (1) continue to receive educational services so as to enable the student to continue to participate in the general education curriculum, although in another setting and to progress toward the goals set out in the student's IEP; and
- (2) 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.

8 CRR-NY 200.22. Program Standards for behavioral interventions.

Behavioral interventions for students with disabilities shall be provided in accordance with this section and those other applicable provisions of this Part and/or Part 201 that are not inconsistent with this section.

(a) Assessment of student behaviors. For purposes of this section, an assessment of student behaviors shall mean a functional behavioral assessment (FBA), as such term is defined in section 200.1(r) of this Part.

- (1) A FBA shall be conducted as required in section 200.4 of this Part and section 201.3 of this Title.
- (2) The FBA shall, as appropriate, be based on multiple sources of data including, but not limited to, information obtained from direct observation of the student, information from the student, the student's teacher(s) and/or related service provider(s), a review of available data and information from the student's record and other sources including any relevant information provided by the student's parent. The FBA shall not be based solely on the student's history of presenting problem behaviors.
- (3) The FBA shall provide a baseline of the student's problem behaviors with regard to frequency, duration, intensity and/or latency across activities, settings, people and times of the day and include the information required in section 200.1(r) of this Part in sufficient detail to form the basis for a behavioral intervention plan for the student that addresses antecedent behaviors, reinforcing consequences of the behavior, recommendations for teaching alternative skills or behaviors and an assessment of student preferences for reinforcement.

(b) Behavioral intervention plan.

(1) The CSE or CPSE shall consider the development of a behavioral intervention plan, as such term is defined in section 200.1(mmm) of this Part, for a student with a disability when:

- (i) the student exhibits persistent behaviors that impede his or her learning or that of others, despite consistently implemented general school-wide or classroom-wide interventions;
- (ii) the student's behavior places the student or others at risk of harm or injury;
- (iii) the CSE or CPSE is considering more restrictive programs or placements as a result of the student's behavior; and/or
- (iv) as required pursuant to section 201.3 of this Title.

(2) In accordance with the requirements in section 200.4 of this Part, in the case of a student whose behavior impedes his or her learning or that of others, the CSE or CPSE shall consider strategies, including positive behavioral interventions and supports and other strategies to address that behavior. If a particular device or service, including an intervention, accommodation or other program modification is needed to address the student's behavior that impedes his or her learning or that of

others, the IEP shall so indicate. A student's need for a behavioral intervention plan shall be documented on the IEP and such plan shall be reviewed at least annually by the CSE or CPSE.

(3) Except as provided in subdivision (e) of this section, a behavioral intervention plan shall not include the use of aversive interventions.

(4) The behavioral intervention plan shall identify:

(i) the baseline measure of the problem behavior, including the frequency, duration, intensity and/or latency of the targeted behaviors. Such baseline shall, to the extent practicable, include data taken across activities, settings, people and times of the day. The baseline data shall be used as a standard to establish performance criteria and against which to evaluate intervention effectiveness;

(ii) the intervention strategies to be used to alter antecedent events to prevent the occurrence of the behavior, teach individual alternative and adaptive behaviors to the student, and provide consequences for the targeted inappropriate behavior(s) and alternative acceptable behavior(s); and

(iii) a schedule to measure the effectiveness of the interventions, including the frequency, duration and intensity of the targeted behaviors at scheduled intervals.

(5) Progress monitoring. The implementation of a student's behavioral intervention plan shall include regular progress monitoring of the frequency, duration and intensity of the behavioral interventions at scheduled intervals, as specified in the behavioral intervention plan and on the student's IEP. The results of the progress monitoring shall be documented and reported to the student's parents and to the CSE or CPSE and shall be considered in any determination to revise a student's behavioral intervention plan or IEP.

Professional development

LAWS

13. Policies and guidelines.

The board of education and the trustees or sole trustee of every school district shall create policies and guidelines that shall include, but not be limited to:

2. Guidelines to be used in school training programs to discourage the development of harassment, bullying and discrimination, and to make school employees aware of the effects of harassment, bullying, cyberbullying and discrimination on students and that are designed:

a. to raise the awareness and sensitivity of school employees to potential harassment, bullying and discrimination, and

b. to enable employees to prevent and respond to harassment, bullying and discrimination; and

3. Guidelines relating to the development of nondiscriminatory instructional and counseling methods, and requiring that at least one staff member at every school be thoroughly trained to handle human relations in the areas of race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, and sex; and

5. Training required by this section shall address the social patterns of harassment, bullying and discrimination, as defined in section eleven of this article, including but not limited to those acts based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex, the identification and mitigation of harassment, bullying and discrimination, and strategies for effectively addressing problems of exclusion, bias and aggression in educational settings.

14. Commissioner's responsibilities.

The commissioner shall:

5. The commissioner shall prescribe regulations that school professionals applying on or after July first, two thousand thirteen for a certificate or license, including but not limited to a certificate or license valid for service as a classroom teacher, school counselor, school psychologist, school social worker, school administrator or supervisor or superintendent of schools shall, in addition to all other certification or licensing requirements, have completed training on the social patterns of harassment, bullying and discrimination, as defined in section eleven of this article, including but not limited to those acts based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex, the identification and mitigation of harassment, bullying and discrimination, and strategies for effectively addressing problems of exclusion, bias and aggression in educational settings.

804. Health education regarding mental health, alcohol, drugs, tobacco abuse and the prevention and detection of certain cancers.

8. All pre-service training programs in the state for elementary teachers shall include adequate preparation regarding the instruction in alcohol, tobacco, and other drugs set forth herein, and no teacher shall be licensed except upon satisfactory demonstration of the competencies included in the institutional proposals approved by the department.

REGULATIONS

8 CRR-NY 100.2 (l)(1). School conduct and discipline.

1. Policy on school conduct and discipline.

i. On or before January 1, 1986 each school district shall adopt and implement a written policy on school conduct and discipline ... and shall include:

g. guidelines and programs for in-service education programs for all district staff members to ensure effective implementation of school policy on school conduct and discipline

8 CRR-NY 100.2 (l)(2). Code of conduct.

ii. The code of conduct shall include, but is not limited to:

r. guidelines and programs for in-service education programs for all district staff members to ensure effective implementation of school policy on school conduct and discipline, including but not limited to, guidelines on promoting a safe and supportive school climate while discouraging, among other things, discrimination or harassment against students by students and/or school employees; and including safe and supportive school climate concepts in the curriculum and classroom management.

8 CRR-NY 100.2 (jj). Dignity for all students school employee training program

1. Definitions. As used in this subdivision:

i. "School property" means in or within any building, structure, athletic playing field, playground, parking lot or land contained within the real property boundary line of a public elementary or secondary school, including a charter school; or in or on a school bus, as defined in Vehicle and Traffic Law section 142.

ii. "School function" means a school-sponsored extracurricular event or activity.

iii. "Disability" means disability as defined in Executive Law section 292(21).

iv. "Employee" means an employee as defined in Education Law section 1125(3), including an employee of a charter school.

v. "Sexual orientation" means actual or perceived heterosexuality, homosexuality or bisexuality.

vi. Gender" means actual or perceived sex and shall include a person's gender identity or expression.

vii. "Discrimination" means discrimination against any student by a student or students and/or an employee or employees on school property or at a school function including, but not limited to, discrimination based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex.

viii. "Harassment" means the creation of a hostile environment by conduct or by verbal threats, intimidation or abuse that has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional or physical well-being; or conduct, verbal threats, intimidation or abuse that reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety; such conduct, verbal threats, intimidation or abuse includes but is not limited to conduct, verbal threats, intimidation or abuse based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex.

2. On or before July 1, 2012, each school district and each charter school shall establish guidelines for its school or schools to implement, commencing with the 2012-2013 school year and continuing in each school year thereafter, Dignity for All Students school employee training programs to promote a positive school environment that is free from discrimination and harassment; and to discourage and respond to incidents of discrimination and/or harassment on school property or at a school function. Such guidelines shall be approved by the board of education, trustees or sole trustee of the school district (or by the chancellor of the city school district, in the case of the City School District of the City of New York) or by the board of trustees of the charter school.

3. The guidelines shall include, but not be limited to, providing employees, including school and district administrators and instructional and non-instructional staff, with:

i. training to:

a. raise awareness and sensitivity to potential acts of discrimination and/or harassment directed at students that are committed by students and/or school employees on school property or at a school function; including, but not limited to, discrimination and/or harassment based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex; and

b. training to enable employees to prevent and respond to incidents of discrimination and/or harassment;

c. such training may be implemented and conducted in conjunction with existing professional development training pursuant to subparagraph 100.2(dd)(2)(ii) of this Title and/or with any other training for school employees; and

ii. guidelines relating to the development of nondiscriminatory instructional and counseling methods.

4. At least one employee in every school shall be designated as a Dignity Act Coordinator and instructed in the provisions of this subdivision and thoroughly trained to handle human relations in the areas of race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, and sex.

i. The designation of each Dignity Act Coordinator shall be approved by the board of education, trustees or sole trustee of the school district (or in the case of the City School District of the City of New York, by the principal of the school in which the designated employee is employed) or, in the case of a charter school, by the board of trustees.

ii. The name(s) and contact information for the Dignity Act Coordinator(s) shall be shared with all school personnel, students, and persons in parental relation, which shall include, but is not limited to, providing the name, designated school and contact information of each Dignity Act Coordinator by:

- a. listing such information in the code of conduct and updates posted on the Internet web site, if available, of the school or school district, or of the board of cooperative educational services, pursuant to subclause 100.2(l)(2)(iii)(b)(1) of this Part;
- b. including such information in the plain language summary of the code of conduct provided to all persons in parental relation to students before the beginning of each school year, pursuant to subclause 100.2(l)(2)(iii)(b)(3);
- c. providing such information to parents and persons in parental relation in at least one per school year district or school mailing or other method of distribution including, but not limited to, sending such information home with each student and, if such information changes, in at least one subsequent district or school mailing or other such method of distribution as soon as practicable thereafter;
- d. posting such information in highly-visible areas of school buildings; and
- e. making such information available at the district and school-level administrative offices.

iii. In the event a Dignity Act Coordinator vacates his or her position, another school employee shall be immediately designated for an interim appointment as Coordinator, pending approval of a successor Coordinator by the applicable governing body as set forth in subparagraph (i) of this paragraph within 30 days of the date the position was vacated. In the event a Coordinator is unable to perform the duties of his or her position for an extended period of time, another school employee shall be immediately designated for an interim appointment as Coordinator, pending return of the previous Coordinator to his or her duties as Coordinator.

5. Nothing in this subdivision shall be construed to prohibit a denial of admission into, or exclusion from, a course of instruction based on a person's gender that would be permissible under Education Law sections 3201-a or 2854(2)(a) and Title IX of the Education Amendments of 1972 (20 U.S.C. section 1681, et seq.), or to prohibit, as discrimination based on disability, actions that would be permissible under section 504 of the Rehabilitation Act of 1973.

Monitoring and Accountability

Formal incident reporting of conduct violations

LAWS

13. Policies and guidelines.

The board of education and the trustees or sole trustee of every school district shall create policies and guidelines that shall include, but not be limited to:

1. Policies and procedures intended to create a school environment that is free from harassment, bullying and discrimination, that include but are not limited to provisions which:
 - a. identify the principal, superintendent or the principal's or superintendent's designee as the school employee charged with receiving reports of harassment, bullying and discrimination;
 - b. enable students and parents to make an oral or written report of harassment, bullying or discrimination to teachers, administrators and other school personnel that the school district deems appropriate;
 - c. require school employees who witness harassment, bullying or discrimination, or receive an oral or written report of harassment, bullying or discrimination, to promptly orally notify the principal, superintendent or the principal's or superintendent's designee not later than one school day after such school employee witnesses or receives a report of harassment, bullying or discrimination, and to file a written report with the principal, superintendent or the principal or superintendent's designee not later than two school days after making such oral report;
 - d. require the principal, superintendent or the principal's or superintendent's designee to lead or supervise the thorough investigation of all reports of harassment, bullying and discrimination, and to ensure that such investigation is completed promptly after receipt of any written reports made under this section;
 - e. require the school, when an investigation reveals any such verified harassment, bullying or discrimination, to take prompt actions reasonably calculated to end the harassment, bullying or discrimination, eliminate any hostile environment, create a more positive school culture and climate, prevent recurrence of the behavior, and ensure the safety of the student or students against whom such harassment, bullying or discrimination was directed. Such actions shall be consistent with the guidelines created pursuant to subdivision four of this section;
 - f. prohibit retaliation against any individual who, in good faith, reports, or assists in the investigation of, harassment, bullying or discrimination;
 - h. require the principal to make a regular report on data and trends related to harassment, bullying and discrimination to the superintendent;

15. Reporting by commissioner.

The commissioner shall create a procedure under which material incidents of harassment, bullying and discrimination on school grounds or at a school function are reported to the department at least on an annual basis. Such procedure shall provide that such reports shall, wherever possible, also delineate the specific nature of such incidents of harassment, bullying and discrimination, provided that the commissioner may comply with the requirements of this section through use of the existing uniform violent incident reporting system. In addition the department may conduct research or undertake studies to determine compliance throughout the state with the provisions of this article.

REGULATIONS

No relevant regulations found.

Parental notification

LAWS

2801. Codes of conduct on school property.

2. The board of education or the trustees, as defined in section two of this chapter, of every school district within the state, however created, and every board of cooperative educational services and county vocational extension board, shall adopt and amend, as appropriate, a code of conduct for the maintenance of order on school property, including a school function, which shall govern the conduct of students, teachers and other school personnel as well as visitors and shall provide for the enforcement thereof... Such code of conduct shall include, at a minimum:

- i. provisions setting forth the circumstances under and procedures by which persons in parental relation to the student shall be notified of code violations;

3213. Supervisors of attendance; attendance teachers; attendance officers; appointment, compensation, powers and duties.

c. Notification upon absence. It shall be the duty of every school district to inform persons in parental relation to elementary school pupils of such person's right to be notified when such pupil is deemed absent from attendance at his designated school. Persons in parental relation to elementary school pupils shall, if such notification is desired, forward a request in writing to the principal of the pupil's designated school. Such request shall contain the telephone number of person or persons in parental relation to the pupil or other information to facilitate communication with such persons by the most expedient means available. No civil or criminal liability shall arise or attach to any school district or employee thereof for any act or omission to act as a result of, or in connection with, the duties or activities authorized or directed by this paragraph.

d. Notification when deemed absent. A supervisor of attendance, attendance teacher, attendance officer, or other person authorized by the school district, as the case may be, shall, where a request for notification has been made pursuant to paragraph c of this subdivision, notify a person in parental relation to any elementary school pupil by the means designated in such request when such pupil is deemed absent from required attendance at his designated school without prior notification and consent to such absence by the person in parental relation. No civil or criminal liability shall arise or attach to any school district or employee thereof for any act or omission to act as a result of, or in connection with, the duties or activities authorized or directed by this paragraph.

3214. Student placement, suspensions and transfers.

3-a. Teacher removal of a disruptive pupil. In addition, any teacher shall have the power and authority to remove a disruptive pupil, as defined in subdivision two-a of this section, from such teacher's classroom consistent with discipline measures contained in the code of conduct adopted by the board pursuant to section twenty-eight hundred one of this chapter. The school authorities of any school district shall establish policies and procedures to ensure the provision of continued educational programming and activities for students removed from the classroom pursuant to this subdivision and provided further that nothing in this subdivision shall authorize the removal of a pupil in violation of any state or federal law or regulation. No pupil shall return to the classroom until the principal makes a final determination pursuant to paragraph c of this subdivision, or the period of removal expires, whichever is less.

b. The principal shall inform the person in parental relation to such pupil of the removal and the reasons therefor within twenty-four hours of the pupil's removal. The pupil and the person in parental relation shall, upon request, be given an opportunity for an informal conference with the principal to discuss the reasons for the removal. If the pupil denies the charges, the principal shall provide an explanation of the basis for the removal and allow the pupil and/or person in parental relation to the pupil an opportunity to present the pupil's version of relevant events. Such informal hearing shall be held within forty-eight hours of the pupil's removal.

5. Involuntary transfers of pupils who have not been determined to be a student with a disability or a student presumed to have a disability for discipline purposes.

a. The board of education, board of trustees or sole trustee, the superintendent of schools, or district superintendent of schools may transfer a pupil who has not been determined to be a student with a disability as defined in section forty-four hundred one of this chapter, or a student presumed to have a disability for discipline purposes as defined in paragraph g of subdivision three of this section from regular classroom instruction to an appropriate educational setting in another school upon the written recommendation of the school principal and following independent review thereof. For purposes of this section of the law, "involuntary transfer" does not include a transfer made by a school district as part of a plan to reduce racial imbalance within the schools or as a change in school attendance zones or geographical boundaries.

b. A school principal may initiate a non-requested transfer where it is believed that such a pupil would benefit from the transfer, or when the pupil would receive an adequate and appropriate education in another school program or facility.

No recommendation for pupil transfer shall be initiated by the principal until such pupil and a person in parental relation has been sent written notification of the consideration of transfer recommendation. Such notice shall set a time and place of an informal conference with the principal and shall inform such person in parental relation and such pupil of their right to be accompanied by counsel or an individual of their choice.

c. After the conference and if the principal concludes that the pupil would benefit from a transfer or that the pupil would receive an adequate and appropriate education in another school program or facility, the principal may issue a recommendation of transfer to the superintendent. Such recommendation shall include a description of behavior and/or academic problems indicative of the need for transfer; a description of alternatives explored, and prior action taken to resolve the problem. A copy of that letter shall be sent to the person in parental relation and to the pupil.

d. Upon receipt of the principal's recommendation for transfer and a determination to consider that recommendation, the superintendent shall notify the person in parental relation and the pupil of the proposed transfer and of their right to a fair hearing as provided in paragraph c of subdivision three of this section and shall list community agencies and free legal assistance which may be of assistance. The written notice shall include a statement that the pupil or person in parental relation has ten days to request a hearing and that the proposed transfer shall not take effect, except upon written parental consent, until the ten day period has elapsed, or, if a fair hearing is requested, until after a formal decision following the hearing is rendered, whichever is later. Parental consent to a transfer shall not constitute a waiver of the right to a fair hearing.

REGULATIONS

8 CRR-NY 100.2 (l)(2) Code of conduct.

ii. The code of conduct shall include, but is not limited to:

l. provisions setting forth the circumstances under and procedures by which persons in parental relation to the student shall be notified of code violations;

8 CRR-NY 100.2 (l)(4). Parental notification of student suspension.

When suspension of a student from attendance for a period of five days or less pursuant to section 3214(3) of the Education Law is proposed, school district officials shall immediately notify the parents or the persons in parental relation in writing that the student may be suspended from school. Written notice shall be provided by personal delivery, express mail delivery, or equivalent means reasonably calculated to assure receipt of such notice within 24 hours of the decision to propose suspension at the last known address or addresses of the parents or persons in parental relation. Where possible, notification shall also be provided by telephone if the school has been provided with a telephone number(s) for the purpose of contacting parents or persons in parental relation. Such notice shall provide a description of the incident(s) for which suspension is proposed and shall inform the parents or persons in parental relation of their right to request an immediate informal conference with the principal in accordance with the provisions of Education Law, section 3214(3)(b). Such notice and informal conference shall be in the dominant language or mode of communication used by the parents or persons in parental relation to the pupil. Such notice and opportunity for an informal conference shall take place prior to the suspension of the student unless the student's presence in the school poses a continuing danger to persons or property or an ongoing threat of disruption to the academic process, in which case the notice and opportunity for an informal conference shall take place as soon after the suspension as is reasonably practicable.

Reporting and referrals between schools and law enforcement

LAWS

13. Policies and guidelines.

The board of education and the trustees or sole trustee of every school district shall create policies and guidelines that shall include, but not be limited to:

1. Policies and procedures intended to create a school environment that is free from harassment, bullying and discrimination, that include but are not limited to provisions which:
 - i. require the principal, superintendent or the principal's or superintendent's designee, to notify promptly the appropriate local law enforcement agency when such principal, superintendent or the principal's or superintendent's designee, believes that any harassment, bullying or discrimination constitutes criminal conduct;

2801. Codes of conduct on school property.

2. The board of education or the trustees, as defined in section two of this chapter, of every school district within the state, however created, and every board of cooperative educational services and county vocational extension board, shall adopt and amend, as appropriate, a code of conduct for the maintenance of order on school property, including a school function, which shall govern the conduct of students, teachers and other school personnel as well as visitors and shall provide for the enforcement thereof... Such code of conduct shall include, at a minimum:

- h. provisions setting forth the procedures by which local law enforcement agencies shall be notified of code violations which constitute a crime;
- j. provisions setting forth the circumstances under and procedures by which a complaint in criminal court, a juvenile delinquency petition or person in need of supervision petition as defined in articles three and seven of the family court act will be filed;

2801-a. School safety plans.

10. Every school shall define the roles and areas of responsibility of school personnel, security personnel and law enforcement in response to student misconduct that violates the code of conduct. A school district or charter school that employs, contracts with, or otherwise retains law enforcement or public or private security personnel, including school resource officers, shall establish a written contract or memorandum of understanding that is developed with stakeholder input, including, but not limited to, parents, students, school administrators, teachers, collective bargaining units, parent and student organizations and community members, as well as probation officers, prosecutors, defense counsels and courts that are familiar with school discipline. Such written contract or memorandum of understanding shall define the relationship between a school district or charter school, school personnel, students, visitors, law enforcement, and public or private security personnel. Such contract or memorandum of understanding shall be consistent with the code of conduct, define law enforcement or security personnel's roles, responsibilities and involvement within a school and clearly delegate the role of school discipline to the school administration. Such written contract or memorandum of understanding shall be incorporated into and published as part of the district safety plan.

3214. Student placement, suspensions and transfers.

3. Suspension of a pupil.

d. (1) Consistent with the federal gun-free schools act, any public school pupil who is determined under this subdivision to have brought a firearm to or possessed a firearm at a public school shall be suspended for a period of not less than one calendar year and any nonpublic school pupil participating in a program operated by a public school district using funds from the elementary and secondary education act of nineteen hundred sixty-five who is determined under this subdivision to have brought a firearm to or possessed a firearm at a public school or other premises used by the school district to provide such programs shall be suspended for a period of not less than one calendar year from participation in such program. The procedures of this subdivision shall apply to such a suspension of a nonpublic school pupil. A superintendent of schools, district superintendent of schools or community superintendent shall have the authority to modify this suspension requirement for each student on a case-by-case basis. The determination of a superintendent shall be subject to review by the board of education pursuant to paragraph c of this subdivision and the commissioner pursuant to section three hundred ten of this chapter. Nothing in this subdivision shall be deemed to authorize the suspension of a student with a disability in violation of the individuals with disabilities education act or article eighty-nine of this chapter. A superintendent shall refer the pupil under the age of sixteen who has been determined to have brought a weapon or firearm to school in violation of this subdivision to a presentment agency for a juvenile delinquency proceeding consistent with article three of the family court act except a student fourteen or fifteen years of age who qualifies for juvenile offender status under subdivision forty-two of section 1.20 of the criminal procedure law. A superintendent shall refer any pupil sixteen years of age or older or a student fourteen or fifteen years of age who qualifies for juvenile offender status under subdivision forty-two of section 1.20 of the criminal procedure law, who has been determined to have brought a weapon or firearm to school in violation of this subdivision to the appropriate law enforcement officials.

REGULATIONS

8 CRR-NY 100.2 (l)(2) Code of conduct.

ii. The code of conduct shall include, but is not limited to:

k. provisions setting forth the procedures by which local law enforcement agencies shall be notified of code violations which constitute a crime;

m. provisions setting forth the circumstances under and procedures by which a complaint in criminal court, a juvenile delinquency petition or person in need of supervision petition as defined in Articles three and seven of the Family Court Act will be filed;

Disclosure of school records

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Data collection, review, and reporting of disciplinary policies and actions

LAWS

13. Policies and guidelines.

The board of education and the trustees or sole trustee of every school district shall create policies and guidelines that shall include, but not be limited to:

1. Policies and procedures intended to create a school environment that is free from harassment, bullying and discrimination, that include but are not limited to provisions which:
 - h. require the principal to make a regular report on data and trends related to harassment, bullying and discrimination to the superintendent;

2801. Codes of conduct on school property.

5. a. The board of education, chancellor or other governing body shall annually review and update the district's codes of conduct if necessary, taking into consideration the effectiveness of code provisions and the fairness and consistency of its administration. Each school district is authorized to establish a committee and to facilitate the review of the code of conduct and the district's response to code of conduct violations. Any such committee shall be comprised of similar individuals described in subdivision three of this section. The school board, chancellor, or other governing body shall reapprove any such updated code only after at least one public hearing that provides for the participation of school personnel, parents, students and any other interested parties.

- b. Each district shall file a copy of its codes of conduct with the commissioner and all amendments to such code shall be filed with the commissioner no later than thirty days after their adoption.

2802. Uniform violent incident reporting system.

1. The commissioner, in conjunction with the division of criminal justice services, shall promulgate regulations defining "violent or disruptive incidents" for the purposes of this section.
2. The commissioner, in conjunction with the division of criminal justice services, shall establish a statewide uniform violent incident reporting system which public school districts, boards of cooperative educational services and county vocational education and extension boards shall follow.
3. The uniform violent incident reporting system shall require public school districts, boards of cooperative educational services and county vocational education and extension board to annually report to the

commissioner in a form and by a date prescribed by the commissioner, the following information concerning violent and disruptive incidents that occurred in the prior school year:

- a. the type of offenders;
- b. if any offender is a student, the age and grade of the student;
- c. the location at which the incident occurred;
- d. the type of incident;
- e. whether the incident occurred during or outside of regular school hours;
- f. where the incident involves a weapon, whether the weapon was a firearm, knife or other weapon;
- g. the actions taken by the school in response to the incident, including when the incident was reported to law enforcement officials and whether disciplinary action was taken against the offenders;
- h. any student discipline or referral action taken against a student/offender, including but not limited to an out-of-school suspension, an involuntary transfer to a alternative placement, an in-school suspension, a referral for community service, a referral for counseling, or a referral to the juvenile justice system, and the duration of such action; and
- i. the nature of the victim and the victim's age and grade where appropriate.

4. The commissioner shall require a summary of such information to be included, in a form prescribed by the commissioner, in the school district report cards or board of cooperative educational services report cards required by this chapter.

5. By April first of each year, the commissioner shall report to the governor, the legislature and the regents concerning the prevalence of violence and disruptive incidents in the public schools, and the effectiveness of school programs undertaken to reduce violence and assure the safety and security of students and school personnel. The report shall summarize the information available from the incident reporting system and compare the incidence of violent and disruptive incidents of schools and school districts and boards with other schools and school districts and boards based on similarity in size and grade levels and other characteristics, including student need and resources, as determined by the commissioner. The report shall also, to the extent possible, relate the results available from the incident reporting system, together with such other analysis and information as the commissioner determines is appropriate, to the effectiveness of school violence measures undertaken by participating schools and school districts, including the school codes and school safety plans required by sections twenty-eight hundred one and twenty-eight hundred one-a of this article.

6. The commissioner, in conjunction with the commissioner of the division of criminal justice services, shall promulgate regulations to implement the provisions of this section and to assure to the extent practicable that the reports used by school districts are uniform and comparable with respect to the types of incidents reported and the responses of the schools and the school districts. Such regulations shall provide for the confidentiality of all personally identifiable information and shall ensure that any personally identifiable information which is collected is used only for its intended purpose.

REGULATIONS

8 CRR-NY 100.2 (l)(1) School conduct and discipline.

1. Policy on school conduct and discipline.

- i. On or before January 1, 1986 each school district shall adopt and implement a written policy on school conduct and discipline ... and shall include:
- ii. The board of education shall adopt such a policy and review it on an annual basis and amend it when appropriate. Each school district's policy on school conduct and discipline shall be filed in each school building and shall be available for review by any individual.

8 CRR-NY 100.2 (l)(2) Code of conduct.

iii. Additional responsibilities.

a. Each board of education and, in the case of the City School District of the City of New York, the chancellor of such city school district, and each board of cooperative educational services shall annually review and update as necessary its code of conduct, taking into consideration the effectiveness of code provisions and the fairness and consistency of its administration. A school district may establish a committee pursuant to Education Law section 2801(5)(a) to facilitate the review of its code of conduct and the district's response to code of conduct violations. A board of education or board of cooperative educational services may adopt any revision to the code of conduct only after at least one public hearing that provides for the participation of school personnel, parents, students and any other interested party. Each district shall file a copy of its code of conduct and any amendments with the commissioner, in a manner prescribed by the commissioner, no later than 30 days after their respective adoptions.

8 CRR-NY 100.2 (l)(3). Corporal punishment.

ii. In every school district and supervisory district, the trustee, trustees, board of education or board of cooperative educational services, shall submit a written semiannual report to the Commissioner of Education, by January 15th and July 15th of each year, commencing July 1, 1985, setting forth the substance of each complaint about the use of corporal punishment received by the local school authorities during the reporting period, the results of each investigation, and the action, if any, taken by the school authorities in each case.

8 CRR-NY 100.2 (gg). Uniform violent or disruptive incident reporting system.

School districts, boards of cooperative educational services, charter schools and county vocational education and extension boards shall submit to the commissioner annual reports of violent or disruptive incidents that occurred in the prior school year, commencing with the 2001-2002 school year, in accordance with Education Law, section 2802 and this subdivision.

(1) Definitions. For the purposes of this subdivision:

(i) School function means a school-sponsored or school-authorized extracurricular event or activity, regardless of where such event or activity takes place, including any event or activity that may take place in another state.

(ii) School property shall mean in or within any building, structure, athletic playing field, playground, parking lot or land contained within the real property boundary line of a public elementary or secondary school; or in or on a school bus, as defined in section 142 of the Vehicle and Traffic Law; or at a school function.

(iii) Physical injury means impairment of physical condition or substantial pain and includes, but is not limited to, black eyes, welts, abrasions, bruises, cuts not requiring stitches, swelling and headaches not related to a concussion.

(iv) Serious physical injury means physical injury which creates a substantial risk of death or which causes death or serious and protracted disfigurement or protracted impairment of health or protracted loss or impairment of the function of any bodily organ and requires hospitalization or treatment in an emergency medical care facility outside of school, including but not limited to, a bullet wound, fractured or broken bones or teeth, concussions, cuts requiring stitches and any other injury involving risk of death or disfigurement.

(v) Weapon means one or more of the following dangerous instruments:

(a) a firearm, including but not limited to a rifle, shotgun, pistol, handgun, silencer, electronic dart gun, stun gun, machine gun, airgun or spring gun;

- (b) a switchblade knife, gravity knife, pilum ballistic knife, cane sword, dagger, stiletto, dirk, razor, box cutter, metal knuckle knife, utility knife or other dangerous knife;
 - (c) a billy club, blackjack, bludgeon, chukka stick, or metal knuckles;
 - (d) a sandbag or sandclub;
 - (e) a sling shot or slungshot;
 - (f) a martial arts instrument, including but not limited to a kung fu star, ninja star, nin chuck, or shirken;
 - (g) an explosive, including but not limited to a firecracker or other fireworks;
 - (h) a deadly or dangerous chemical, including but not limited to a strong acid or base, mace, or pepper spray;
 - (i) an imitation gun;
 - (j) loaded or blank cartridges or other ammunition; or
 - (k) any other dangerous or deadly instrument possessed with intent to use the same unlawfully against another.
- (vi) Violent or disruptive incident shall mean one of the following categories of incidents that occurs on school property of the school district, board of cooperative educational services, charter school or county vocational education and extension board, committed with or without a weapon (except in the case of weapons possession):
- (a) Homicide. Any intentional violent conduct which results in the death of another person.
 - (b) Sex offenses.
 - (1) Forcible sex offenses. Sex offenses involving forcible compulsion and completed or attempted sexual intercourse, oral sexual conduct, anal sexual conduct or aggravated sexual contact, with or without a weapon including but not limited to, rape and sodomy; or resulting from forcibly touching or grabbing another student on a part of the body that is generally regarded as private, which includes, but is not limited to the buttocks, breasts, or genitalia.
 - (2) Other sex offenses. Other non-consensual sex offenses involving inappropriate sexual contact, including, but not limited to, touching another student on a part of the body that is generally regarded as private, which includes, but is not limited to, the buttocks, breasts, and genitalia, removing another student's clothing to reveal underwear or private body parts, or brushing or rubbing against another person in a sexual manner. Other sex offenses shall also include, but not be limited to conduct that may be consensual or involve a child who is incapable of consent by reason of disability or because he or she is under 17 years of age, provided that such term shall not include consensual sexual conduct involving only students, and/or non-students 18 years of age or under, unless at least one of the individuals participating in the conduct is at least four years older than the youngest individual participating in the conduct.
 - (c) Assault. Intentionally or recklessly causing physical injury to another person, with or without a weapon, in violation of the school district code of conduct which shall include either:
 - (1) engaging in behavior which causes serious physical injury; or
 - (2) engaging in behavior which causes physical injury.
 - (d) Material incident of harassment, bullying, and/or discrimination. A single verified incident or a series of related verified incidents where a student is subjected to harassment, bullying and/or discrimination by a student and/or employee on school property or at a school function. In addition, such term shall include a verified incident or series of related incidents of harassment or bullying that occur off school property, as defined in subparagraph (kk)(1)(viii) of this section, such conduct shall include, but is not limited to, threats, intimidation or abuse based on a person's actual or

perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, or sex; provided that nothing in this subdivision shall be construed to prohibit a denial of admission into, or exclusion from, a course of instruction based on a person's gender that would be permissible under Education Law sections 3201-a or 2854(2)(a) and title IX of the Education Amendments of 1972 (20 U.S.C. section 1681, et seq.), or to prohibit, as discrimination based on disability, actions that would be permissible under section 504 of the Rehabilitation Act of 1973.

(e) Bomb threat. A telephoned, written or electronic message that a bomb, explosive, chemical or biological weapon has been or will be placed on school property.

(f) False alarm. Causing a fire alarm or other disaster alarm to be activated knowing there is no danger, or through false reporting of a fire or disaster.

(g) Weapons possession. Possession of one or more weapons as defined by subparagraph (v) of this paragraph, except possession in a classroom or laboratory as part of an instructional program or in a school-related activity under the supervision of a teacher or other school personnel as authorized by school officials which are discovered either through:

(1) routine security checks; or

(2) weapons possessed at a school function or on school property which are not discovered through a routine security check, including but not limited to, weapons found in the possession of a student or within a locker.

(h) Use, possession or sale of drugs. Illegally using, possessing, or being under the influence of a controlled substance or marijuana, on school property or at a school function, including having such substance on a person in a locker, vehicle, or other personal space; selling or distributing a controlled substance or marijuana, on school property; finding a controlled substance or marijuana, on school property that is not in the possession of any person; provided that nothing herein shall be construed to apply to the lawful administration of a prescription drug on school property.

(i) Use, possession or sale of alcohol. Illegally using, possessing, or being under the influence of alcohol on school property or at a school function, including having such substance on a person or in a locker, vehicle, or other personal space; illegally selling or distributing alcohol on school property or at a school function; finding alcohol on school property that is not in the possession of any person.

(2) Recording of offenses.

(i) For purposes of reporting pursuant to this subdivision, each incident shall be reported once in the highest ranking category of offense that applies, except that incidents involving a weapon and one of the offenses listed in clauses (1)(vi)(a) through (f) of this subdivision shall be reported in the highest ranking category of offense that applies as an offense committed with a weapon, and not in weapons possession; and incidents involving drug use, possession or sale and/or alcohol use, possession or sale and another offense shall be reported in the highest ranking category in clauses (1)(vi)(a) through (g) of this subdivision that applies. If the offense involves only the use, possession or sale of drugs or alcohol, it shall be recorded in the applicable category of drug or alcohol use, possession or sale as an incident involving drug or alcohol use, possession or sale only. For purposes of determining the highest ranking offense pursuant to this subparagraph, offenses shall be ranked in the order that they appear in clauses (1)(vi)(a) through (f) of this subdivision, followed by weapons possession, drug use, possession or sale and alcohol use, possession or sale.

(ii) All incidents involving bomb threats or false alarms as defined in clauses (1)(vi)(e) and (f) of this subdivision shall be reported. All incidents involving material incidents of harassment, bullying, and/or discrimination as defined in clause (1)(vi)(d) of this subdivision shall be reported.

(3) Submission of report. Each school district, board of cooperative educational services, charter school and county vocational education and extension board shall annually submit its report on violent or disruptive incidents, in the manner prescribed by the commissioner, on or before the basic educational data system (BEDS) reporting deadline or such other date as determined by the commissioner.

(4) Content of report. Each individual violent or disruptive incident report shall be in a form prescribed by the commissioner and shall contain the following information concerning each violent or disruptive incident that occurred in the prior school year:

(i) the number and types of offenders, identified as student, teacher, school safety officer, other school staff, student intruder, visitor, unknown or other;

(ii) if any offender is a student, the age and grade of the student;

(iii) the location at which the incident occurred, including:

(a) the school building in which the incident occurred or whose real property boundary line includes the athletic playing field, playground, parking lot or land on which the incident occurred, and whether the incident occurred in a classroom, laboratory, hall, staircase, gymnasium, locker room or pool, cafeteria, bathroom, auditorium, playground or athletic field or otherwise on school grounds; or

(b) where applicable, that the incident occurred on a school bus; or

(c) where applicable, that the incident occurred at a school function conducted off school grounds.

(iv) the types of incident, identified by category listed in clauses (1)(vi)(a) through (i) of this subdivision;

(v) whether the incident occurred during or outside of regular school hours;

(vi) where the incident involves a weapon, whether the weapon was a firearm, knife or other weapon;

(vii) whether the incident was bias-related, drug-related, or gang or group-related;

(viii) the actions taken by the school in response to the incident, including when the incident was reported to police or other law enforcement officials and whether disciplinary action was taken against the offenders;

(ix) any student discipline or referral action taken against a student/offender, including but not limited to an out-of-school suspension, a teacher removal, an involuntary transfer to an alternative placement, an in-school suspension, a referral for community service, a referral for counseling, or a referral to the juvenile justice system or the criminal justice system, and the duration of such action; and

(x) the number and nature of the victims, identified as a student, teacher, school safety officer, other school staff or other and the victim's age and grade where the victim is a student.

(5) Preparation of report. Each annual violent or disruptive incident report shall be in a form prescribed by the commissioner and shall contain such information as the commissioner shall prescribe, including but not limited to information on the frequency and types of incidents, offenders, victims and student discipline or referral actions taken, as is available on the date the annual report is submitted.

(6) Local procedures. The governing body of each school district, board of cooperative educational services, charter school and county vocational education and extension board shall establish local procedures for the reporting of violent or disruptive incidents by each building and/or program under its jurisdiction. Such procedures shall assure that copies of each violent or disruptive incident report at the building or program level are retained for period prescribed by the commissioner in the applicable records retention schedule, and are available for inspection by the department upon request; provided that a district or board that adopts an electronic reporting system may fulfill such requirement by retaining an electronic record of the information reported at the building or program level.

(7) Confidentiality. Pursuant to subdivision 6 of section 2802 of the Education Law, all personally identifiable information included in a violent or disruptive incident report shall be confidential, and shall not be disclosed to any person for use by any person for purposes other than the purposes of section 2802 of the Education Law, except as otherwise authorized by law.

(8) School violence index. Each school year, commencing with the 2005-2006 school year, the department shall establish a school violence index as a comparative measure of the level of school violence in a school. The school violence index will be computed in accordance with a formula established by the commissioner that takes into account the enrollment of the school and is weighted to reflect the most serious violent incidents, which shall include but need not be limited to the following categories of incidents: homicide, forcible sexual offense, assault resulting in serious physical injury, assault resulting in physical injury, and incidents involving the possession, use or threatened use of a weapon.

8 CRR-NY 100.2 (kk). Dignity Act reporting requirements.

2. Reporting of incidents.

i. For the 2012-2013 school year and for each succeeding school year thereafter, each school district, board of cooperative educational services (BOCES) and charter school shall submit to the commissioner an annual report of material incidents of discrimination and/or harassment that occurred in such school year, in accordance with Education Law section 15 and this subdivision. Such report shall be submitted in a manner prescribed by the commissioner, on or before the basic educational data system (BEDS) reporting deadline or such other date as determined by the commissioner.

ii. For purposes of reporting pursuant to this subdivision, a school district, BOCES or charter school shall include in its annual report all material incidents of discrimination and/or harassment that:

- a. are the result of the investigation of a written or oral complaint made to the school principal or other school administrator responsible for school discipline, or to any other employee; or
- b. are otherwise directly observed by such principal or administrator, or by any other employee regardless of whether a complaint is made.

iii. Such report shall include information describing the specific nature of the incident, including, but not limited to:

- a. the type(s) of bias involved (actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, sex, or other). Where multiple types of bias are involved, they shall all be reported;
- b. whether the incident resulted from student and/or employee conduct;
- c. whether the incident involved physical contact and/or verbal threats, intimidation or abuse; and
- d. the location where the incident occurred (on school property or at a school function).

3. Protection of people who report discrimination and/or harassment.

i. Pursuant to Education Law section 16, any person having reasonable cause to suspect that a student has been subjected to discrimination and/or harassment by an employee or student, on school grounds or at a school function, who acting reasonably and in good faith, either reports such information to school officials, to the commissioner, or to law enforcement authorities or otherwise initiates, testifies, participates or assists in any formal or informal proceedings under this subdivision, shall have immunity from any civil liability that may arise from the making of such report or from initiating, testifying, participating or assisting in such formal or informal proceedings.

ii. No school district, BOCES or charter school, or an employee thereof, shall take, request or cause a retaliatory action against any such person who, acting reasonably and in good faith, either makes such a report or initiates, testifies, participates or assists in such formal or informal proceedings.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

LAWS

3213. Supervisors of attendance; attendance teachers; attendance officers; appointment, compensation, powers and duties.

2. Powers and duties. a. Arrest of truants. A supervisor of attendance, attendance teacher or attendance officer, as the case may be, may arrest without warrant any minor who is unlawfully absent from attendance upon instruction. He shall forthwith place the minor so arrested in attendance upon required instruction and shall notify the parent or guardian of the minor, and he may then begin proceedings for his commitment as a school delinquent or arraign him before a court having jurisdiction. Where a minor resides in one school district and attends school in another school district, the supervisor of attendance, attendance teacher or attendance officer of the district where the minor resides and the supervisor of attendance, attendance teacher or attendance officer of the district where said minor attends school shall have concurrent jurisdiction with reference to said minor and to the person or persons in parental relation to him.

4111. Arrest of truants.

Any attendance officer may arrest without warrant anywhere within the state any Indian child between six and sixteen years of age, found away from his home and who is then a truant from instruction upon which he is lawfully required to attend within the districts of which such attendance officer has jurisdiction. He shall forthwith deliver a child so arrested either to the person in parental relation to the child, or to the teacher of the school from which said child is then a truant, or in case of habitual or incorrigible truants, shall bring them before a magistrate for commitment to a school for delinquents, as provided in section forty-one hundred twelve.

REGULATIONS

No relevant regulations found.

Certification or training

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

MOUs, authorization, and/or funding

LAWS

2801-a. School safety plans.

10. Every school shall define the roles and areas of responsibility of school personnel, security personnel and law enforcement in response to student misconduct that violates the code of conduct. A school

district or charter school that employs, contracts with, or otherwise retains law enforcement or public or private security personnel, including school resource officers, shall establish a written contract or memorandum of understanding that is developed with stakeholder input, including, but not limited to, parents, students, school administrators, teachers, collective bargaining units, parent and student organizations and community members, as well as probation officers, prosecutors, defense counsels and courts that are familiar with school discipline. Such written contract or memorandum of understanding shall define the relationship between a school district or charter school, school personnel, students, visitors, law enforcement, and public or private security personnel. Such contract or memorandum of understanding shall be consistent with the code of conduct, define law enforcement or security personnel's roles, responsibilities and involvement within a school and clearly delegate the role of school discipline to the school administration. Such written contract or memorandum of understanding shall be incorporated into and published as part of the district safety plan.

3211. Records of attendance upon instruction.

3. Inspection of records of attendance. An attendance officer, or any other duly authorized representative of the school authorities, may at any time during school hours, demand the production of the records of attendance of minors required to be kept by the provisions of part one of this article, and may inspect or copy the same and make all proper inquiries of a teacher or principal concerning the records and the attendance of such minors.

3213. Supervisors of attendance; attendance teachers; attendance officers; appointment, compensation, powers and duties.

1. Appointment, removal, compensation and supervision.

a. To the end that children shall not suffer through unnecessary failure to attend school for any cause whatsoever, it shall be the duty of each attendance teacher and each attendance supervisor to secure for every child his right to educational opportunities which will enable him to develop his fullest potentialities for education, physical, social and spiritual growth as an individual and to provide for the school adjustment of any nonattendant child in cooperation with school authorities, special school services and community and social agencies.

The school authorities of each city school district, union free school district, central school district, central high school district, or common school district whose limits include in whole or in part an incorporated village, shall appoint and may remove one or more supervisors of attendance or attendance teachers of such district. A supervisor of attendance shall be appointed in accordance with the civil service law and rules, unless he or she is a licensed attendance teacher or a teacher licensed to teach in New York state, with such further qualifications as the board of regents shall establish. On and after July first, nineteen hundred fifty-five no full-time supervisor of attendance shall be appointed unless he or she holds a license as attendance teacher. Such supervisors of attendance and those holding full-time positions who are similarly licensed teachers or who hold attendance teacher licenses shall be assigned to the step in the salary schedule of the school district commensurate with the salary being paid such supervisors or teachers. Such persons shall be paid thereafter in accordance with such schedule. If the amount of salary received on said July first, nineteen hundred fifty-five is less than the minimum step of the salary schedule, such supervisor or teacher shall be paid until June thirtieth, nineteen hundred fifty-six at the rate of the first step and in accordance with the schedule thereafter.

No supervisor of attendance or attendance teacher shall be appointed who is not twenty-one years of age and in proper physical condition. In the establishment of an eligible list advanced education related to attendance service shall be taken into consideration in the grading of the candidates. Experience in teaching, in social service and welfare work, and in business or in the professional field shall likewise be taken into consideration.

Paragraph a of subdivision one of this section shall apply to a city in which attendance supervisors are appointed from an eligible list now prepared by a board of examiners.

Supervisors of attendance in a city having a board of examiners shall be licensed as attendance teachers only when they comply with the regulations for such license as established by the commissioner of education and any additional requirements which may be established by the board of examiners.

The board of education shall fix the compensation of part-time supervisors of attendance and prescribe their duties not inconsistent with part one of this article and make rules and regulations for the performance thereof. The superintendent of schools or district superintendent of schools shall supervise the enforcement of part one of this article within such city or school district.

b. The town board of each town, with the approval, in writing, of the district superintendent, shall appoint, on or before August first of each year, one or more attendance officers and shall fix their compensation. During the school year it shall also fill promptly any vacancy after notification thereof by the district superintendent. The district superintendent shall promptly notify the town board of his approval or disapproval of an appointment. If within one month a town board shall not comply with the foregoing provisions, the district superintendent, subject to appeal to the commissioner of education, shall exercise the powers and duties of the town board with respect thereto. An attendance officer appointed for a town shall have jurisdiction over all school districts of the town which are not otherwise provided for by this section. He shall be removable at the pleasure of the district superintendent. His compensation and his necessary expenses in attending conferences called by the district superintendent shall be a town charge.

c. In case a school district shall include territory lying within the boundaries of more than one town, the attendance officer appointed by the town in which the schoolhouse is located shall have jurisdiction over the entire school district.

2. Powers and duties.

a. Arrest of truants. A supervisor of attendance, attendance teacher or attendance officer, as the case may be, may arrest without warrant any minor who is unlawfully absent from attendance upon instruction. He shall forthwith place the minor so arrested in attendance upon required instruction and shall notify the parent or guardian of the minor, and he may then begin proceedings for his commitment as a school delinquent or arraign him before a court having jurisdiction. Where a minor resides in one school district and attends school in another school district, the supervisor of attendance, attendance teacher or attendance officer of the district where the minor resides and the supervisor of attendance, attendance teacher or attendance officer of the district where said minor attends school shall have concurrent jurisdiction with reference to said minor and to the person or persons in parental relation to him.

b. Right of entry.

(1) A supervisor of attendance, attendance teacher or attendance officer, as the case may be, in the performance of his duties, may enter during business hours any factory, mercantile or other establishment, or other place in which a minor is believed to be employed within the city or school district in which he is appointed, and shall be entitled to examine on demand the employment certificates or work permits of minors therein employed, for whose lawful employment such certificates or permits are required by the provisions of part one of this article.

(2) He may also enter any public place during the hours in which the public have access thereto, to ascertain if any minor is therein who is required to attend upon instruction by the provisions of part one of this article, or engaged in a street trade contrary to the provisions of part one of this article, or to collect information required for the school census.

c. Notification upon absence. It shall be the duty of every school district to inform persons in parental relation to elementary school pupils of such person's right to be notified when such pupil is deemed absent from attendance at his designated school. Persons in parental relation to elementary school pupils shall, if such notification is desired, forward a request in writing to the principal of the pupil's designated school. Such request shall contain the telephone number of person or persons in parental relation to the pupil or other information to facilitate communication with such persons by the most expedient means available. No civil or criminal liability shall arise or attach to any school district or employee thereof for any act or omission to act as a result of, or in connection with, the duties or activities authorized or directed by this paragraph.

d. Notification when deemed absent. A supervisor of attendance, attendance teacher, attendance officer, or other person authorized by the school district, as the case may be, shall, where a request for notification has been made pursuant to paragraph c of this subdivision, notify a person in parental relation to any elementary school pupil by the means designated in such request when such pupil is deemed absent from required attendance at his designated school without prior notification and consent to such absence by the person in parental relation. No civil or criminal liability shall arise or attach to any school district or employee thereof for any act or omission to act as a result of, or in connection with, the duties or activities authorized or directed by this paragraph.

e. To the extent that supervisors of attendance, attendance teachers and attendance officers act pursuant to this subdivision and subdivision one of this section for the purpose of carrying out the provisions of part one of this article, they shall be deemed to have acted within the scope of their employment. Such personnel shall continue to have all the powers, duties and responsibilities conferred on them by law prior to the date on which the provisions of this paragraph become effective.

4110. Attendance officers.

1. The principal teacher of the Indian schools on each reservation shall supervise the enforcement of this article within said reservation and shall appoint, subject to the approval of the commissioner of education, and remove at pleasure such number of attendance officers as the commissioner of education shall deem necessary, whose jurisdictions shall extend over all school districts on the reservation for which they shall be appointed. Such principal teachers are also vested with the same power and authority as the attendance officers appointed by them.

2. If the education of Indian children of the reservation shall be provided pursuant to the provisions of subdivision two of section forty-one hundred one of this chapter, the attendance officer or officers of the school district providing such education shall have jurisdiction over all Indian children on the reservation. Such attendance officers shall not, however, be entitled to receive from the commissioner of education the payment for services provided in section forty-one hundred fourteen of this chapter.

3. The commissioner of education may appoint and remove at pleasure such attendance officers as he shall deem necessary, who shall have jurisdiction over all children other than Indian children on the reservation for which they shall be appointed. Such attendance officers shall receive such sum per day or part thereof as shall be fixed by the commissioner of education for each day or part thereof necessarily employed as such attendance officers. Compensation of attendance officers herein provided for shall be audited by the commissioner of education and paid in the same manner as other expenses incurred pursuant to this article.

REGULATIONS

No relevant regulations found.

State Education Agency Support

State model policies and implementation support

LAWS

14. Commissioner's responsibilities.

The commissioner shall:

1. Provide direction, which may include development of model policies and, to the extent possible, direct services, to school districts related to preventing harassment, bullying and discrimination and to fostering an environment in every school where all children can learn free of manifestations of bias;
2. Provide grants, from funds appropriated for such purpose, to local school districts to assist them in implementing the guidelines set forth in this section;
3. Promulgate regulations to assist school districts in implementing this article including, but not limited to, regulations to assist school districts in developing measured, balanced, and age-appropriate responses to violations of this policy, with remedies and procedures following a progressive model that make appropriate use of intervention, discipline and education and provide guidance related to the application of regulations; and
4. Provide guidance and educational materials to school districts related to best practices in addressing cyberbullying and helping families and communities work cooperatively with schools in addressing cyberbullying, whether on or off school property or at or away from a school function.
5. The commissioner shall prescribe regulations that school professionals applying on or after July first, two thousand thirteen for a certificate or license, including but not limited to a certificate or license valid for service as a classroom teacher, school counselor, school psychologist, school social worker, school administrator or supervisor or superintendent of schools shall, in addition to all other certification or licensing requirements, have completed training on the social patterns of harassment, bullying and discrimination, as defined in section eleven of this article, including but not limited to those acts based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex, the identification and mitigation of harassment, bullying and discrimination, and strategies for effectively addressing problems of exclusion, bias and aggression in educational settings.

REGULATIONS

No relevant regulations found.

Funding appropriations

LAWS

14. Commissioner's responsibilities.

The commissioner shall:

2. Provide grants, from funds appropriated for such purpose, to local school districts to assist them in implementing the guidelines set forth in this section;

2814. Omnibus school violence prevention grant program.

1. Within amounts appropriated for implementation of extended day programs and school violence prevention programs, the commissioner is hereby authorized and directed to award grants on a competitive basis to school districts. Such grants shall be for one or more of the following pursuant to this section: school safety and violence prevention programs consistent with the purposes of the school safety plans required by section twenty-eight hundred one-a of this article and extended day activities defined in this section. School districts shall be prohibited from using funds awarded pursuant to this section to displace school district after-school funding in existence as of the effective date of this article.

a. School safety activities. Programs eligible for funding pursuant to this section may include, but not be limited to: (i) safe corridors programs; (ii) diversity programs; (iii) collaborative school safety programs with law enforcement agencies or community-based organizations; (iv) metal detectors, intercom and other intra-school communication devices and other devices to increase school security and the safety of school personnel and students; (v) other programs including comprehensive school-based intervention models, approved by the commissioner, that reduce violence and improve school safety. Comprehensive school based intervention models shall coordinate with and collaborate with other services currently being provided in the school district, incorporate appropriate school violence prevention and intervention services, and coordinate appropriate funding sources to ensure the efficient delivery of services. Such comprehensive school-based intervention models shall also include provisions for the involvement of teachers, parents, school administrators in the development and implementation of the program, a detailed statement identifying specific performance goals, a proposed timetable for implementation and achievement of such goals and specific assessment methods which will be used to measure student and school progress.

b. Extended day activities.

(i) Eligible extended day activities under this paragraph shall be for programs conducted outside the regular school day whereby students can participate in extra-curricular enrichment activities including but not limited to athletics, academic enrichment, art, music, drama, academic tutoring, mentoring, community services and related programs that will increase student achievement and contribute to school violence prevention. Such activities conducted outside the regular school day shall be offered collaboratively between not-for-profit educational organizations, community based organizations, other agencies approved by the commissioner and public elementary or secondary schools, and where applicable, school districts.

(ii) Grantees receiving funding pursuant to this subdivision may expend no more than five percent of grants for administration and no more than five percent for grantee training.

2. In the event the appropriation for the purposes of this section in any year is insufficient to pay all claims pursuant to this subdivision, the commissioner shall pay such claims on a prorated basis among all districts filing such claims until the appropriation is exhausted.

3. Programs supported by grants pursuant to this section shall not be eligible aid pursuant to any other provision of this chapter.

REGULATIONS

No relevant regulations found.

Other or Uncategorized

Professional immunity or liability

LAWS

16. Protection of people who report harassment, bullying or discrimination.

Any person having reasonable cause to suspect that a student has been subjected to harassment, bullying or discrimination, by an employee or student, on school grounds or at a school function, who, acting reasonably and in good faith, reports such information to school officials, to the commissioner or to law enforcement authorities, acts in compliance with paragraph e or i of subdivision one of section thirteen of this article, or otherwise initiates, testifies, participates or assists in any formal or informal proceedings under this article, shall have immunity from any civil liability that may arise from the making of such report or from initiating, testifying, participating or assisting in such formal or informal proceedings, and no school district or employee shall take, request or cause a retaliatory action against any such person who, acting reasonably and in good faith, either makes such a report or initiates, testifies, participates or assists in such formal or informal proceedings.

3028-a. Students under twenty-one years of age suspected of alcohol abuse or narcotic addiction.

Any teacher, school administrator, school guidance counselor, school psychologist, school drug counselor, school nurse, supervisor of attendance, attendance teacher or attendance officer having reasonable cause to suspect that a secondary or elementary student under twenty-one years of age is a substance or alcohol abuser or substance dependent, who report such information to the appropriate secondary or elementary school officials pursuant to the school's drug policy or if the school has no drug policy to the school's principal or the parents or legal guardians of such student under twenty-one years of age shall have immunity from any civil liability that might otherwise be incurred or imposed as a result of the making of such a report.

3028-b. Notification of teachers' duty to provide information and immunity from liability.

Each school shall annually provide to each teacher and all other school officials a written explanation concerning the reporting of pupil drug abuse, child abuse, and child abuse in an educational setting including the immunity provisions of section three thousand twenty-eight-a of this article and section eleven hundred twenty-six of this chapter and sections four hundred thirteen and four hundred nineteen of the social services law. The commissioner, with the assistance and cooperation of the commissioner of children and family services and the commissioner of criminal justice services, shall furnish each school district with the required information. Such information shall be updated by the commissioner at least once each school year.

3028-c. Protection of school employees who report acts of violence and weapons possession.

Any school employee having reasonable cause to suspect that a person has committed an act of violence while in or on school property, or having reasonable cause to suspect that a person has committed an act of violence upon a student, school employee or volunteer either upon school grounds or elsewhere, or having reasonable cause to suspect that a person has brought a gun, knife, bomb or other instrument capable of or that appears capable of causing death or physical injury upon school grounds who in good faith reports such information to school officials, to the commissioner, or to law enforcement authorities, shall have immunity from any civil liability that may arise from the making of such report, and no school district or school district employee shall take, request or cause a retaliatory action against any such employee who makes such report.

REGULATIONS

8 CRR-NY 100.2 (kk). Dignity Act reporting requirements.

3. Protection of people who report discrimination and/or harassment.
 - i. Pursuant to Education Law section 16, any person having reasonable cause to suspect that a student has been subjected to discrimination and/or harassment by an employee or student, on school grounds or at a school function, who acting reasonably and in good faith, either reports such information to school officials, to the commissioner, or to law enforcement authorities or otherwise initiates, testifies, participates or assists in any formal or informal proceedings under this subdivision, shall have immunity from any civil liability that may arise from the making of such report or from initiating, testifying, participating or assisting in such formal or informal proceedings.
 - ii. No school district, BOCES or charter school, or an employee thereof, shall take, request or cause a retaliatory action against any such person who, acting reasonably and in good faith, either makes such a report or initiates, testifies, participates or assists in such formal or informal proceedings.

Community input or involvement

LAWS

2801. Codes of conduct on school property.

2. The board of education or the trustees, as defined in section two of this chapter, of every school district within the state, however created, and every board of cooperative educational services and county vocational extension board, shall adopt and amend, as appropriate, a code of conduct for the maintenance of order on school property, including a school function, which shall govern the conduct of students, teachers and other school personnel as well as visitors and shall provide for the enforcement thereof. Such policy may be adopted by the school board or trustees only after at least one public hearing that provides for the participation of school personnel, parents, students and any other interested parties.
3. The district code of conduct shall be developed in collaboration with student, teacher, administrator, and parent organizations, school safety personnel and other school personnel and shall be approved by the board of education, or other governing body, or by the chancellor of the city school district in the case of the city school district of the city of New York. In the city school district of the city of New York, each community school district board shall be authorized to adopt and implement additional policies, which are consistent with the city district's district-wide code of conduct, to reflect the individual needs of each community school district provided that such additional policies shall require the approval of the chancellor.

2801-a. School safety plans.

10. Every school shall define the roles and areas of responsibility of school personnel, security personnel and law enforcement in response to student misconduct that violates the code of conduct. A school district or charter school that employs, contracts with, or otherwise retains law enforcement or public or private security personnel, including school resource officers, shall establish a written contract or memorandum of understanding that is developed with stakeholder input, including, but not limited to, parents, students, school administrators, teachers, collective bargaining units, parent and student organizations and community members, as well as probation officers, prosecutors, defense counsels and courts that are familiar with school discipline. Such written contract or memorandum of understanding shall define the relationship between a school district or charter school, school personnel, students, visitors, law enforcement, and public or private security personnel. Such contract or memorandum of understanding shall be consistent with the code of conduct, define law enforcement or security

personnel's roles, responsibilities and involvement within a school and clearly delegate the role of school discipline to the school administration. Such written contract or memorandum of understanding shall be incorporated into and published as part of the district safety plan.

REGULATIONS

No relevant regulations found.

Other or Uncategorized

LAWS

2801-a. School safety plans.

1. The board of education or trustees, as defined in section two of this chapter, of every school district within the state, however created, and every board of cooperative educational services and county vocational education and extension board and the chancellor of the city school district of the city of New York shall adopt and amend a comprehensive district-wide school safety plan and building-level emergency response plans regarding crisis intervention, emergency response and management, provided that in the city school district of the city of New York, such plans shall be adopted by the chancellor of the city school district. Such plans shall be developed by a district-wide school safety team and a building-level emergency response team established pursuant to subdivision four of this section and shall be in a form developed by the commissioner in consultation with the division of criminal justice services, the superintendent of the state police and any other appropriate state agencies. The commissioner, in consultation with the superintendent of the state police, is authorized to develop an appeals process from duplicative requirements of a district-wide school safety plan for school districts having only one school building.

2. Such comprehensive district-wide safety plan shall be developed by the district-wide school safety team and shall include at a minimum:

- a. policies and procedures for responding to implied or direct threat of violence by students, teachers, other school personnel as well as visitors to the school, including threats by students against themselves, which for the purposes of this section shall include suicide;
- b. policies and procedures for responding to acts of violence by students, teachers, other school personnel as well as visitors to the school, including consideration of zero-tolerance policies for school violence;
- c. appropriate prevention and intervention strategies such as:
 - (i) collaborative arrangements with state and local law enforcement officials, designed to ensure that school safety officers and other security personnel are adequately trained, including being trained to de-escalate potentially violent situations, and are effectively and fairly recruited;
 - (ii) non-violent conflict resolution training programs;
 - (iii) peer mediation programs and youth courts; and
 - (iv) extended day and other school safety programs;
- d. policies and procedures for contacting appropriate law enforcement officials in the event of a violent incident;
- e. policies and procedures for contacting parents, guardians or persons in parental relation to the students of the district in the event of a violent incident and policies and procedures for contacting parents, guardians or persons in parental relation to an individual student of the district in the event of

an implied or direct threat of violence by such student against themselves, which for purposes of this section shall include suicide;

f. policies and procedures relating to school building security, including where appropriate the use of school safety officers and/or security devices or procedures;

g. policies and procedures for the dissemination of informative materials regarding the early detection of potentially violent behaviors, including but not limited to the identification of family, community and environmental factors, to teachers, administrators, school personnel, persons in parental relation to students of the district, students and other persons deemed appropriate to receive such information;

h. policies and procedures for annual school safety training for staff and students; provided that the district must certify to the commissioner that all staff have undergone annual training on the emergency response plan, and that the school safety training include components on violence prevention and mental health, such training may be implemented and conducted in conjunction with existing professional development and training; provided however that new employees hired after the start of the school year shall receive training within thirty days of such hire or as part of a district's existing new hire training program, whichever is sooner;

i. protocols for responding to bomb threats, hostage-takings, intrusions and kidnappings;

j. strategies for improving communication among students and between students and staff and reporting of potentially violent incidents, such as the establishment of youth-run programs, peer mediation, conflict resolution, creating a forum or designating a mentor for students concerned with bullying or violence and establishing anonymous reporting mechanisms for school violence;

k. a description of the duties of hall monitors and any other school safety personnel, the training required of all personnel acting in a school security capacity, and the hiring and screening process for all personnel acting in a school security capacity; and

l. the designation of the superintendent, or superintendent's designee, as the district chief emergency officer responsible for coordinating communication between school staff and law enforcement and first responders, and ensuring staff understanding of the district-level safety plan. The chief emergency officer shall also be responsible for ensuring the completion and yearly updating of building-level emergency response plans.

3. A building level emergency response plan, developed by the building-level emergency response team defined in subdivision four of this section, shall be kept confidential, including but not limited to the floor plans, blueprints, schematics or other maps of the school interior, school grounds and road maps of the immediate surrounding area, and shall not be disclosed except to authorized department or school staff, and law enforcement officers, and shall include the following elements:

a. policies and procedures for response to emergency situations, such as those requiring evacuation, sheltering, and lock-down. These policies shall include, at a minimum, evacuation routes, shelter sites, a procedures for addressing medical needs, transportation and emergency notification of parents and guardians;

b. designation of an emergency response team comprised of school personnel, law enforcement officials, fire officials and representative from local regional and/or state emergency response agencies, other appropriate incident response teams, and a post-incident response team that includes appropriate school personnel, medical personnel, mental health counselors and others who can assist the school community in coping with the aftermath of a violent incident;

c. floor plans, blueprints, schematics or other maps of the school interior, school grounds and road maps of the immediate surrounding area;

d. establishment of internal and external communication systems in emergencies;

- e. definition of the chain of command in a manner consistent with the national interagency incident management system/incident command system;
 - f. coordination of the emergency response plan with the state-wide plan for disaster mental health services to assure that the school has access to federal, state and local mental health resources in the event of a violent incident;
 - g. procedures for review and the conduct of drills and other exercises to test components of the emergency response plan; and
 - h. policies and procedures for securing and restricting access to the crime scene in order to preserve evidence in cases of violent crimes on school property.
4. Each district-wide school safety team shall be appointed by the board of education, or the chancellor in the case of the city school district of the city of New York, and shall include but not be limited to representatives of the school board, teacher, administrator, and parent organizations, school safety personnel, and other school personnel including bus drivers and monitors. At the discretion of the board of education, or the chancellor in the case of the city of New York, a student may be allowed to participate on the safety team, provided however, that no portion of a confidential building-level emergency response plan shall be shared with such student nor shall such student be present where details of a confidential building-level emergency response plan or confidential portions of a district-wide emergency response strategy are discussed. Each building-level emergency response team shall be appointed by the building principal, in accordance with regulations or guidelines prescribed by the board of education, chancellor or other governing body. Such building-level teams shall include but not be limited to representatives of teacher, administrator, and parent organizations, school safety personnel and other school personnel including bus drivers and monitors, community members, law enforcement officials, fire officials or other emergency response agencies, and any other representatives the board of education, chancellor or other governing body deems appropriate.
5. The district-wide safety plan and building-level emergency response plans shall be reviewed by the appropriate team on at least an annual basis and updated as needed.
6. Each board of education, chancellor or other governing body shall make each district-wide safety plan available for public comment at least thirty days prior to its adoption. Such district-wide plans may be adopted by the school board only after at least one public hearing that provides for the participation of school personnel, parents, students and any other interested parties. Each district shall file a copy of its district-wide safety plan with the commissioner and all amendments to such plan shall be filed with the commissioner no later than thirty days after their adoption.
7. Each board of education, chancellor or other governing body or officer shall ensure a copy of each building-level emergency response plan and any amendments thereto, shall be filed with the appropriate local law enforcement agency and with the state police within thirty days of its adoption. Building-level emergency response plans shall be confidential and shall not be subject to disclosure under article six of the public officer's law or any other provision of law. If the board of education, chancellor or other governing body or chancellor fails to file such plan as required by this section, the commissioner may, in an amount determined by the commissioner, withhold public money from the district until the district is in compliance.
8. The commissioner shall annually report to the governor and the legislature on the implementation and compliance with the provisions of this section.
9. Whenever it shall have been demonstrated to the satisfaction of the commissioner that a school district has failed to adopt a code of conduct which fully satisfies the requirements of section twenty-eight hundred one of this article, or a district-wide safety plan or building-level emergency response plans which satisfies the requirements of this section, or to faithfully and completely implement all three, the commissioner may, on thirty days' notice to the district, withhold from the district monies to be paid to

such district for the current school year pursuant to section thirty-six hundred nine-a of this chapter, exclusive of monies to be paid in respect of obligations to the retirement systems for school and district staff and pursuant to collective bargaining agreements, or the commissioner may direct the district to expend up to such amount upon the development and implementation of a code of conduct and a school district safety plan as required by such sections. Prior to such withholding or redirection, the commissioner shall provide the district an opportunity to present evidence of extenuating circumstances; when combined with evidence that the district shall promptly comply within short time frames that shall be established by the commissioner as part of an agreement between the district and the commissioner, the commissioner may temporarily stay the withholding or redirection of funds pending implementation of such agreement. If the district promptly and fully complies with the agreement and is in full compliance with this section and section twenty-eight hundred one of this article, the commissioner shall abate the withholding in its entirety. Any failure to meet the obligations of the compliance agreement by the district within the time frames established shall be considered a willful violation of a commissioner's order by the members of the district board for purposes of subdivision one of section three hundred six of the education law. Notwithstanding any other law, rule or regulation, such transfer shall take effect upon filing of a notice thereof with the director of the budget and the chairs of the senate finance and assembly ways and means committees.

10. Every school shall define the roles and areas of responsibility of school personnel, security personnel and law enforcement in response to student misconduct that violates the code of conduct. A school district or charter school that employs, contracts with, or otherwise retains law enforcement or public or private security personnel, including school resource officers, shall establish a written contract or memorandum of understanding that is developed with stakeholder input, including, but not limited to, parents, students, school administrators, teachers, collective bargaining units, parent and student organizations and community members, as well as probation officers, prosecutors, defense counsels and courts that are familiar with school discipline. Such written contract or memorandum of understanding shall define the relationship between a school district or charter school, school personnel, students, visitors, law enforcement, and public or private security personnel. Such contract or memorandum of understanding shall be consistent with the code of conduct, define law enforcement or security personnel's roles, responsibilities and involvement within a school and clearly delegate the role of school discipline to the school administration. Such written contract or memorandum of understanding shall be incorporated into and published as part of the district safety plan.

3214. Student placement, suspensions and transfers.

4. Expense.

a. The expense attending the commitment and costs of maintenance of any school delinquent shall be a charge against the city or district where he resides, if such city or district employs a superintendent of schools; otherwise it shall be a county charge.

b. The school authorities may institute proceedings before a court having jurisdiction to determine the liability of a person in parental relation to contribute towards the maintenance of a school delinquent under sixteen years of age ordered to attend upon instruction under confinement. If the court shall find the person in parental relation able to contribute towards the maintenance of such a minor, it may issue an order fixing the amount to be paid weekly.

REGULATIONS

No relevant regulations found.

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 New York provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

| Title | Description | Website address (if applicable) |
|--|--|---|
| <i>Website</i> | | |
| Corporal Punishment, New York State Education Department (NYSED) | Defines the term corporal punishment and provides information on reporting complaints about the use of corporal punishment in schools. | http://www.p12.nysed.gov/sss/ssae/schoolsafety/CorplPunish/CorporalPunishment.html |
| The Dignity for All Students Act, NYSED | Provides an overview of the Dignity for All Students Act and includes links to training materials, laws and regulations, and related resources. | http://www.p12.nysed.gov/dignityact |
| New York State Center for School Safety (NYSCFSS) | Provides statewide professional development and technical assistance offering direct support to schools and districts in creating and maintaining safe and healthy learning environments for all New York State students. | https://www.nyscfss.org/ |
| Safe Schools Against Violence in Education (SAVE), NYSED | Provides safety resources and guidance to school officials about the Safe Schools Against Violence in Education (SAVE) Act. | http://www.p12.nysed.gov/sss/ssae/schoolsafety/save/ |
| School Climate, NYSED | Presents an overview of state efforts to create positive school climates that promote student safety, student self-esteem, emotional well-being, mental health, and lower incidences of substance abuse, student absenteeism, and suspensions. | http://www.p12.nysed.gov/sss/ssae/schoolsafety/school-climate.html |
| Social Emotional Learning: Essential for Learning, Essential for Life, Essential for New York (SEL), NYSED | Provides a definition of SEL, outlines SEL goals and describes the intersection between SEL and related content areas (e.g., mental health, trauma, school climate, equity), and provides links to additional resources. | http://www.p12.nysed.gov/sss/sel |

| Title | Description | Website address (if applicable) |
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| <i>Documents</i> | | |
| New York State Social Emotional Learning Benchmarks, NYSED | Resource identifying social emotional goals and associated benchmarks for voluntary use in schools organized by school level (early elementary, late elementary, middle school, early high school, and late high school). | http://www.p12.nysed.gov/sss/documents/NYSSELBenchmarks.pdf |
| Social Emotional Learning: A Guide to Systemic Whole School Implementation (March 2019), NYSED | Guidance document supporting systemic whole school implementation of social-emotional learning to create safe, supportive school communities. | http://www.p12.nysed.gov/sss/documents/GuideToSystemicWholeSchoolImplementationFINAL.pdf |
| Suspension and Expulsion of Preschool Children (July 2015), NYSED | Memorandum used to publicize and provide important information to the field regarding federal and State policy to limit and eliminate practices of suspension and expulsion of preschool children. | http://www.p12.nysed.gov/special-ed/publications/2015-memos/preschool-suspensions-expulsions-memo-july-2015.pdf |
| Quality Indicator Review and Resource Guides for Behavioral Supports and Interventions - Positive Behavioral Systems (May 2014), NYSED | Guidance document developed for use by NYSED's Regional Special Education Technical Assistance Support Centers network to guide their work in assessment of programs and provision of professional development, support and technical assistance to districts and schools to improve results for students with disabilities. | http://www.p12.nysed.gov/special-ed/techassist/behaviorQI-May2014.htm |
| <i>Other Resources</i> | | |
| School Safety and the Educational Climate (SSEC) Incidents SY 2018-19, NYSED | Data reports detailing the number of incidents relating to School Safety and the Educational Climate (SSEC) reported to SED for specified school years, including incidents of discrimination and/or harassment and incidents of cyberbullying. | http://www.p12.nysed.gov/irs/school_safety/school_safety_data_reporting.html |